

Case Officer: Tom Webster

Applicant: GG Oxford Investments Ltd

Proposal: Demolition of existing building and construction of 32 No apartments together with landscaping, car parking, bin stores, secure cycle parking and associated infrastructure - re-submission of 21/02573/F

Ward: Bicester West

Councillors: Cllr. Broad, Cllr. Knight and Cllr. Sibley

Reason for Referral: Major development and called in by Cllr. Les Sibley

Expiry Date: 15 July 2024

Committee Date: 11 July 2024

SUMMARY RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS AND A S106 LEGAL AGREEMENT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site comprises a t-shaped, two storey, red bricked building with a hipped roof, known as Waverley House. The building is identified as 'locally listed' within Appendix 3 of the Bicester Conservation Area Appraisal (August 2011) and is, therefore, a non-designated heritage asset. It is centrally located on an irregular shaped piece of land and has been extended significantly to the rear. It has a gross internal floor area of 833sqm.
- 1.2. Waverley House, which is currently vacant, was formally used as Bicester Magistrate Court (and originally built as Council offices in the style of the adjacent police station).
- 1.3. In fact, this building is one of four red brick civic buildings which share the same 1950s civic architectural style and siting: they are each set back by 19.2 metres from Queens Avenue and allow for substantial landscaping and parking facilities. These setbacks give the buildings an additional prominence.
- 1.4. The application site, which is 0.32ha in size, is a corner plot, situated on the edge of Queens Avenue, directly opposite Bicester town centre boundary line and 65m from Bicester Conservation Area.
- 1.5. The boundary lines of the application site are defined by mature trees to the east and south, trees and hedging to the west and a matured vegetal boundary to the north. This northern boundary frames an access road which serves the Bicester School, Bicester Leisure Centre, the Technology Studio and St. Mary's Catholic Primary School.
- 1.6. Queens Avenue is an interesting road with strong characteristics. This section of the road was developed in the late 20th Century on an area that was originally outside

the built-up limits of the town. It has a distinctive character of its own. It is tree lined and there is an attractive stone wall (part of which is listed) which runs, almost continuously, in parallel with the eastern stretch of the road, screening a number of two storey red brick-built dwellings and a cluster of stone-built buildings. These stone buildings are located inside what is the curtilage of a Grade II listed building (Bicester House).

- 1.7. The western part of Queens Avenue is distinguished by a sense of spaciousness; the quality of space and openness washes all over this part of Queens Avenue.
- 1.8. This characteristic results in a calming environment and an interesting approach to the adjacent two parts of Bicester Conservation Area: The Kings End Character Area to the south west and the North Street Character Area to the north east.

2. CONSTRAINTS

- 2.1. The application site is a short distance from Bicester town centre and lies just outside the Bicester Town Centre Extension (Area of Search). Although not located within the Bicester Conservation Area, the existing building is recorded as a locally listed building / non-designated heritage asset. The site is located within the Bicester Air Quality Management Area.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks to demolish the existing two storey T-shaped building (known as Waverley House) and replace it with a three-storey building to allow for 32 apartments. It will be accessed via the existing access point off Queens Avenue.
- 3.2. The residential mix of the replacement building would be:
 - 9 x 1 bed apartments
 - 23 x 2 bed apartments
- 3.3. The development would be a car free scheme with no car parking provision provided on site for the future occupiers. There would be 12 visitor parking bays, 2 of which would be for electric vehicles and 1 would be use as a disabled bay.
- 3.4. Cycle storage will be provided internally on the ground floor. The cycle storage provision will allow for:
 - 64 x bikes (two tier system)
 - 1 x cargo bay; and
 - 1 x inclusive bay
- 3.5. A single storey red brick bin store (45sqm in size) with a hipped, tiled, roof would be located on the north west part of the site (to the rear of the apartment block).
- 3.6. The apartment block would be L-shaped and have a varied roof line: a mixture of hipped and gabled roofs. There would also be a variety (4) of different brick colours and tones (variations on the red brick theme of the original and neighbouring buildings).
- 3.7. The building will be sited on the same site as the existing building albeit it will have a greater height and will come further south towards the southern boundary. The total floor area of the building would be 2,590sqm GIA.

- 3.8. The proposal was initially designed in response to the Inspector's decision letter, but it has also been amended during the course of this application following officer advice.
- 3.9. Seven trees on-site would be lost as part of the redevelopment process. None of the trees have Tree Preservations Orders attached to them.

4. RELEVANT PLANNING HISTORY

- 4.1. The following planning history is considered relevant to the current proposal:
- 4.2. An application that sought to demolish the existing building and replace it with 48 residential units was refused by the Council on the 18th July 2022 for five reasons. Those reasons for refusal were:

1. *By virtue of its forward position, that removes the current set back of the building line within the street scene; its height, bulk and scale, that fills the available space with the site; and inappropriate use of render, in an area characterised by brick; the proposal represents a form of development that would be out of keeping with the form and pattern of development in the local area, resulting in significant and demonstrable harm to the character and appearance of the area and in harm to the Bicester Conservation Area through change to its setting. The proposal therefore conflicts with Policy ESD15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996, the Cherwell Residential Design Guide, and Government guidance in Section 12 of the National Planning Policy Framework including paragraph 130.*
2. *The former Bicester Magistrates Court is a locally listed building and as such a non-designated heritage asset which along with others has historic significance in the local context. The demolition of the building would result in a substantial harm to the asset, and less than substantial harm to the character and appearance of the Bicester Conservation Area through change to its setting. Notwithstanding that the development would provide housing in a sustainable location to meet the Council's identified need, it is considered that the proposal fails to provide sufficient public benefits to outweigh the harm identified and therefore fails to comply with the Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 as well as the aims and objectives of the National Planning Policy Framework, in particular Section 16.*
3. *Notwithstanding the details provided in the Flood Risk Assessment July 2021 Report REF: BMC-LE-GEN-XX-RP-CE-FRA01 by Link Engineering Ltd the analysis of the details has shown that the applicant has failed to demonstrate construction details for the proposed SuDS and drainage infrastructure on the site, has not demonstrated calculations for the permeable paving, has not provided a surface water flood exceedance plan has failed to provide a ground investigation report and infiltration testing in accordance with BRE 365. In the absence of this information the applicant has failed to demonstrate that the proposal would not lead to increased flood risk or result in increased surface water run off or adversely affect ground water quality. The proposed development therefore conflicts with Policies ESD1, ESD6 and ESD7 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within paragraphs 159 – 165 and 167 of the National Planning Policy Framework.*

Note to Applicant: If the Lead Local Flood Authority withdraws its objection then this reason will not be pursued by the Council.

4. *Notwithstanding the promotion of the site as a car free development, the lack of useable visitor parking spaces on the site would result in inappropriate parking in near-by roads to the detriment of local residents and highway safety. The proposal therefore fails to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996, and Government guidance in Section 9 Of the National Planning Policy Framework.*
5. *In the absence of a satisfactory planning obligation, the applicant has failed to adequately demonstrate a contribution as requested by Oxfordshire County Council to encourage walking and cycling as an alternative to the use of the private car. The contribution requested is directly required as a result of the lack of parking on the site. This would be contrary to Policies BSC3 and INF1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within paragraphs 34, 56 and 57 of the National Planning Policy Framework.*

Note to Applicant: This reason for refusal is capable of being addressed and is added in order to protect the Council's interests in the event of any further application or appeal in relation to this development proposal.

- 4.3. The decision was subsequently appealed by the applicants. The Planning Inspector dismissed the appeal on the 9th May 2023
- 4.4. The following site history is also relevant to this application:

23/03441/DEM – Proposed Demolition of Waverley House as part of redevelopment works at the site – Prior Approval Not Required (16th January 2024)

23/02204/DEM – “Proposed Demolition of Waverley House as part of redevelopment works at the site” – Refused on the 6th September 2023

23/02604/DEMPA - Determination as to whether prior approval should be granted in respect of method of demolition and any proposed restoration of the site pursuant to application number 23/02204/DEM – Withdrawn on the 6th December 2023

5. PRE-APPLICATION DISCUSSIONS

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

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **15 March 2024**. Comments received after this date have been accepted on the basis that the application remains under consideration.
- 6.2. There were 10 objections, 40 submissions of support and 1 comment received. The comments raised by third parties are summarised as follows:
- 6.3. The main thrust of the objections is:
 - Loss of an important Non-Designated Heritage Asset, which is a very special feature of the town

- The proposal is not in keeping with the street scene
- This is one of the most significant thoroughfares in Bicester (because of the openness, stone wall and similar designed civic buildings)
- The proposal represents an over development of the site,
- This could lead to other detrimental planning applications on Queens Avenue
- The loss of landscaping and trees is impactful.
- It would be better if the building was retained and used for a community use, be it
- It would have a harmful impact on the Conservation Areas and neighbouring civic buildings and the school and leisure buildings behind
- The site is not allocated for housing
- Lack of adequate safe turning circles for vehicles on site. Lack of EV charging points for the number of available car and motor cycle parking bays. No EV charging points/ or covered parking bays for users of mobility scooters.
- The refuse collection requires the use of a non adopted road and the agreement of the leaseholder
- No affordable housing or s106 contributions – the scheme will not mitigate its own impact
- Revised plans do not address any of the concerns
- New residents will park their cars in Queens Court -will have an impact on access to emergency residents
- Not against the smaller proposal, per se, but on street parking is a concern
- The solutions in the Parking Management Strategy are not practical
- GP surgery with associated health services, a theatre, arts centre, a church, a community centre, a museum or a new Town Council building.
- Better to convert the building into flats
- Front hedging to be protected

6.4. The comments of support included:

- It would be a good use of an underused site.
- It will rejuvenate the site
- New homes are required to help as many people as possible
- There is a real need for a 1 and 2 bed properties in the area, especially for the younger generation.
- It will put less pressure on the Council.

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

7. RESPONSE TO CONSULTATION

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

- 7.2. BICESTER TOWN COUNCIL: **Object** to the proposal and request that the building is retained for use by the local community.
- 7.3. CDC ENVIRONMENTAL PROTECTION: **No objection**, subject to conditions, they raised no objection on Noise, Lighting, Air Quality, Odours or Contaminated Land grounds.
- 7.4. OCC HIGHWAYS: Seeks a contribution of **£46,880** towards proactive travel measures on Queens Avenue along the development frontage. This will comprise two new footways. The Highways Officer also made the following comments, and **objects** on the grounds of insufficient cycle parking provision:

Transport Strategy

The County is currently developing and implementing active travel measures along key transport corridors in Bicester to facilitate and encourage walking and cycling. Various measures are under development for the Kings End / Queens Avenue / Buckingham Road corridor and the County requires a Section 106 contribution of £46,880 towards the funding of these measures as they pass the frontage of the proposed development. The proposed parallel crossing should be delivered as part of this application.

Access arrangements

The site is accessed via an existing opening onto Queens Avenue, the access point poses good visibility in both directions. The proposed site is largely a 'car free' development, with a few spaces being reserved for visitors. As a result, the proposed development is likely to create less vehicle trips than the original land use, resulting in a minimal risk to highway safety.

Sustainable transport connectivity/transport sustainability

The site is within close proximity to the bus stops on Queens Avenue which can be used to access Bicester Town Centre or Oxford. The site is also within walking distance to Bicester Town centre and is within 0.5 miles of both railway stations. There has been a request for funding within the S106 to improve the active travel infrastructure on Queens Avenue.

Car and cycle parking

The applicant has proposed for the development to be car free for residents of the site, with a small number of spaces for visitors. Under the previous submission 21/02573/F the proposal was for a provision of 48 dwellings with a provision of 3 vehicle spaces for visitors, which ultimately fell short of requirement for visitor parking under the vehicular parking standards. At appeal, the planning inspectorate decided that the provision of vehicle parking was not sufficient to cope with the potential demand created by visitors of the site and that the potential for overspill on nearby streets was a detriment to residents and highway safety. The most recent submission is for 33 dwellings with 12 visitor spaces on site. The current guidance for OCC visitor parking is 1 space per 5 dwellings, meaning the required provision for this development is 7 (rounded up). This indicates that the revised plans exceed OCC's guidance in relation to visitor parking.

However, given the planning inspectorate's previous concerns regarding the detriment of overspill parking, OCC will not require a reduction in vehicle spaces in order to reduce the risk of parking overspill. The applicant has outlined a plan for a maintenance team that will deal with many aspects of the site once it is in operation, this includes the management of parking.

The cycle parking standards have changed since the submission of 21/02573/F. The requirement for flats now is a provision of 2 spaces per bedroom, with an additional visitor space per flat. The proposed cycle store and visitor stands have outlined a provision of 145 cycles within a covered cycle store and Sheffield hoops for visitors, conforming to the provision outlined within the Adopted Parking Standards. The provision is provided largely by a doubled stacked system, which is not considered desirable in many circumstances as they are often linked to issues surrounding accessibility. However, in this case I think it is appropriate given the number of cycle spaces required as part of this development.

However, more detail must be provided on the function of the doubled stacked cycle facility to show its accessibility and it may be necessary to widen the cycle store to accommodate for any amendments. The cycle store only identifies one space for accessible cycles and cargo cycles. As the development is car free, a greater provision of accessible / cargo cycle spaces (4-5) must be provided to ensure there are enough available to residents.

This provision can be accommodated with outside stands, but inside is preferable. The location of accessible cycle spaces should be as close to access points as possible to increase their accessibility and reduce tight manoeuvres.

Update comments from OCC Highways on the 28.8.2024: The increased separation distances between the stands is now acceptable.

7.5. OCC STRATEGIC PLANNING: **Objection** -

“OCC Estates have highlighted that the proposed bin store access would require agreement from Oxfordshire County Council and Activate Learning Education Trust.

To reiterate our previous strategic comments:

The applicant’s viability report concludes (page 21): “there is still no financial headroom for the scheme to afford to provide any affordable housing or pay any S106 contributions” OCC continue to maintain that the development would not be acceptable without the highway, education and waste management contributions detailed in our response dated 04/10/23.”

7.6. STRATEGIC HOUSING: No comments to make

7.7. NHS/BOBICS: No comments received.

7.8. CDC RECREATION AND LEISURE: Seek the following contributions:

- Community Halls: **£24,684,98**
- Outdoor Sports: **£64,544.96**
- Indoor Sports: **£18,026**
- Public Art: **£6,400**

7.9. OCC ARCHAEOLOGY: **No Objections.** The OCC Archaeologist has commented that the proposals outlined would not appear to have an invasive impact upon any

known archaeological sites or features. As such, there are no archaeological constraints to this scheme.

7.10. OCC WASTE MANAGEMENT: **No objection** subject to a contribution of **£3,101** Household Waste Recycling Centre Contribution indexed from Index Value 327 using BCIS All-in Tender Price Index

7.11. OCC EDUCATION: No objection subject to the following contributions:

- Secondary School Education: **£132,948**
- Secondary School Land: **£12,200**

7.12. OCC ESTATES: Comments – *“The proposal provides for the collection of residents’ waste by opening up a new access onto the entry road used by schools and Bicester Leisure Centre off Queens Avenue. This is an unadopted, private access road, and agreement would be needed to gain side access from Waverley House for bin collection. The access road forms part of Oxfordshire County Council’s freehold estate and is subject to a lease to the Activate Learning Education Trust and rights of access for the schools and the Leisure Centre”.*

7.13. THAMES WATER: **No objection** subject to informative

7.14. CDC ECOLOGY: **No objection**, subject to conditions.

7.15. BICESTER BUG: Made the following comments:

- *The proposed parallel crossing alongside the existing zebra crossing should be delivered at the same time as the proposed development in order to assist cycle users across the crossing in the immediate term.*
- *In accordance with the Bicester LCWIP and LTN 1/20, there needs to be segregated cycling and pedestrian paths along the frontage of the development, and the route linking to the proposed parallel crossing alongside the existing zebra crossing. This may be done by way of a contribution to provide segregation in the future.*
- *The crossings over minor roads and access points, such as the entrance to the Bicester School and Leisure centre, should provide priority crossing for cycle users and pedestrians. This may also be done by way of a contribution to provide this in the future, along with the segregation works.*
- *The proposed cycle storage lacks detail of how the two-tier system will operate. The submitted design does not detail how much room users will have to operate the system in the space provided. The proposed capacity for one cargo bike and one inclusive space is also not suitable nor sufficient for a car free development of 33 dwellings, where the need for these spaces will exceed what is currently proposed – there needs to be capacity for at least 4 cargo bikes and at least 5 inclusive spaces, that can accommodate longer and wider than standard cycles and trailers. The inclusive cycle space is also located in the corner, with little turning space and behind the cargo bike space; these spaces should be located close to or opposite the door with easy access and wide turning space.*

7.16. THAMES VALLEY POLICE: **No objection**. Provided some suggested security measures/precautions.

7.17. CDC ARBORICULTURALIST. No objections, subject to condition .

The proposal details 21 total arboricultural features, requiring facilitative removal of 8. Of the 8, 5 are individual BS5837 category C, 2 are group category C, and 2 are individual category U. The proposed removal of low quality, or trees with only temporary amenity conforms with BS5837, and is evidenced as being appropriately scored within the submitted impact assessment.

The proposal retains all high category A and B features and references suitable methodologies which could be employed to incorporate them into the proposal. However, the report is very clear that due to facilitative works being required both within retained tree RPAs, and potentially above ground crowns, a full arboricultural method statement should be conditioned. I support the assessments made within the report however, may require further discussion with the project arboriculturalist during review of the method statement with regard to ground protection, proposed surface materials and working practices within RPAs.

I would like to request should the proposal be approved, a pre commencement arboricultural method statement be submitted for consideration.

Whilst only low category trees are proposed for removal, space on the northern side of the site would allow for replanting, I would like to propose a landscaping/tree planting scheme also be submitted for consideration.

7.18. CDC LANDSCAPE: No comments received.

7.19. CDC DRAINAGE: **No objection**

7.20. ENVIRONMENTAL AGENCY: No comments received.

8. RELEVANT PLANNING POLICY AND GUIDANCE

8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

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

- PSD 1: Presumption in Favour of Sustainable Development
- SLE 4: Improved Transport and Connections
- BSC 1: District Wide Housing Distribution
- BSC 2: The Effective and Efficient Use of Land – Brownfield Land and Housing Density
- BSC 3: Affordable Housing
- BSC 4: Housing Mix
- BSC 10: Open Space, Outdoor Sport and Recreation Provision
- BSC 11: Local Standards of Provision – Outdoor Recreation
- BSC 12: Indoor Sport, Outdoor Sport and Recreation Provision
- ESD 1: Mitigating and Adapting to Climate Change

- ESD 2: Energy Hierarchy and Allowable Solutions
- ESD 3: Sustainable Construction
- ESD 4: Decentralised Energy Systems
- ESD 5: Renewable Energy
- ESD 6: Sustainable Flood Risk Management
- ESD 7: Sustainable Drainage Systems
- ESD 8: Water Resources
- ESD 15: The Character of the Built and Historic Environment
- INF 1: Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- C31: Compatibility of proposals in residential areas
- ENV1: Environmental pollution
- ENV12: Potentially contaminated land
- TR1: Transportation funding

Other Material Planning Considerations

- National Planning Policy Framework (NPPF) (December, 2023)
- Planning Practice Guidance (PPG)
- Parking Standards for Cherwell Urban Area
- Cherwell Residential Design Guide Supplementary Planning Document (2018)
- Oxfordshire County Council Residential Road Design Guide (2003) - Second Edition (2015)
- Oxfordshire County Council Cycling Design Standards A guide for Developers, Planners and Engineers 2017
- Oxfordshire County Council Suds Policy
- Bicester Conservation Area Appraisal (2011)

9. APPRAISAL

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

- Principle of development
- Design, and impact on the character of the area
- Heritage impact
- Residential amenity
- Affordable Housing
- Highways
- Ecology impact
- Sustainability
- Drainage
- S106 contributions
- Other matters

Principle of Development

9.2. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.

- 9.3. The recently amended National Planning Policy Framework (NPPF) December 2023, which sets out the Government's planning policy for England and how this should be applied, is also a material consideration.

Development Plan

- 9.4. The Development Plan for this area comprises the adopted Cherwell Local Plan 2011-2031 ('CLP 2015') and the saved policies of the Cherwell Local Plan 1996 ('CLP 1996').
- 9.5. Policy PSD1 of the CLP 2015 states that when considering development proposals, the Council will take a proactive approach to reflect the presumption in favour of sustainable development contained in the National Planning Policy Framework. The policy continues by stating that planning applications that accord with the policies in this Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise.
- 9.6. Policy BSC1 states that Cherwell District will deliver a wide choice of high quality homes by providing for 22,840 additional dwellings between 1 April 2011 and 31 March 2031. 1,106 completions were recorded between 2011 and 2014 leaving 21,734 homes to be provided between 2014 and 2031.
- 9.7. Paragraph E.10 of the Plan states, '*Housing delivery will be monitored to ensure that the projected housing delivery is achieved. The District is required by the NPPF and the NPPG (to maintain a continuous five year supply of deliverable (available, suitable and achievable) sites as well as meeting its overall housing requirement*'.
- 9.8. Paragraph E.19 of the Local Plan states, "*If the supply of deliverable housing land drops to five years or below and where the Council is unable to rectify this within the next monitoring year there may be a need for the early release of sites identified within this strategy or the release of additional land. This will be informed by annual reviews of the Strategic Housing Land Availability*".
- 9.9. Paragraph B88 of the CLP 2015 also highlights the importance of focusing development in and around the towns of Bicester and Banbury in order to ensure that the housing growth (which the District needs) primarily takes place in the locations that are the most sustainable and most capable of absorbing this new growth.
- 9.10. Moreover, Policy BSC2 of the CLP 2015 makes clear that housing developments in the district are expected to make effective and efficient use of land.
- 9.11. The Policy also encourages the re-use of previously developed land in sustainable locations, adding that new housing should be provided on net developable areas at a density of at least 30 dwellings per hectare unless there are justifiable planning reasons for lower density development.

NPPF

- 9.12. A key material consideration is the NPPF which sets out the Government's planning policy for England. The NPPF is supported by Planning Practice Guidance (PPG).
- 9.13. The NPPF explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- 9.14. So that sustainable development is pursued in a positive way, the NPPF includes a 'presumption in favour of sustainable development' (para. 10). Paragraph 11 states that applying the presumption to decision-making means:

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites), granting permission unless:
 - i. the application of policies in this framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed;
 - ii. or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

9.15. The position in which the most important policies are considered to be out-of-date because of the absence of a five-year housing land supply is often referred to as the 'tilted balance'.

9.16. Paragraph 12 advises, '*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 any 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 considerations in a particular case indicate that the plan should not be followed.*'

9.17. Section 5 of the NPPF covers the issue of delivering a sufficient supply of homes and states, '*To support the Government's objective of significantly boosting the supply of homes, 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*'.

9.18. Paragraph 76 highlights the need for Local Planning Authorities (LPAs) to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old (unless these strategic policies have been reviewed and found not to require updating as in Cherwell's case).

Assessment

9.19. The Council has a housing supply position of 5.8 years. This means that the relevant development plan policies are up to date and that development proposals must be assessed in accordance with the Development Plan. Whilst the NPPF states the requirement to have a 5-year supply is not a cap on development, the housing policies of the Development Plan are the starting point for decision taking and are afforded full weight. Notwithstanding these points, the delivery of homes across the district remains an important material consideration in the planning balance.

9.20. This site is in the right place for redevelopment. It is a very sustainable and accessible brownfield site located inside the urban area of Bicester town centre.

- 9.21. The front of the site faces Queens Avenue, a major road within Bicester. Immediately to front of the site is a bus stop served by route 26 which runs into Bicester Town centre and Bicester Village, on a half hour service.
- 9.22. The site is also within 12-minute walking distance and 3-minute cycling distance of Bicester North Train Station.
- 9.23. The building has been vacant since 2016 when it ceased to be used as a magistrates' court. Therefore, demolishing the building and introducing residential accommodation will breathe new life into the site.
- 9.24. Moreover, the proposal, because of its proximity (450m to the nearest town centre shop) will help bolster the vitality of the town centre facilities and provide much needed housing, particularly to those in need of 1 and 2 bed flatted accommodation (nb: a great number of houses in new build developments in and around Bicester are for 1, 2, 3 and 4 bed dwellings). Furthermore, the close proximity and easy access to town centre facilities often attract first time buyers as well as people 'downsizing', so these 32 apartments could be a really useful asset to two social demographics wishing to move to, or to remain, in the area. These are all planning benefits which need to be weighed in the planning balance.
- 9.25. It is also noteworthy that the Council, when assessing the previous residential application for this site, did not raise any objection to the principle of residential use of the site.
- 9.26. As with the previous application, I note that a number of people have written in to object/raise concerns over the loss of the building, as a potential community asset. Instead, their preference would be for the building to be retained and used as a community hall / Special Therapeutic School / music venue/GP Surgery/Reformed Church etc.
- 9.27. Whilst I appreciate and understand the motivation to retain and re-use the building for community purposes, planning applications for those concepts are not before the Council, and the Council is required to consider the application presented at the current time and to determine whether this proposal is acceptable in planning terms.
- 9.28. Alternative uses of the site would have different implications in terms of highway movements / parking, noise levels and potential disturbance on the local residents. There is no detailed information provided and, therefore, these ideas cannot be considered as part of this application. The Council is required to determine the application before it and must not compare the proposal against a hypothetical alternative use which is not before this Committee.
- 9.29. Therefore, for the reasons set out above, is compliant with Policies PSD1, BSC1 and BSC2 of the CLP 2015 and the NPPF.

Design

- 9.30. The NPPF confirms that the Government attaches great importance to the design of the built environment, and notes that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Planning policies relevant to design are set out in the Policies C28 and C30 of the CLP 1996, Policy ESD15 of the CLP 2015 and section 12 of the NPPF.

- 9.31. The National Design Guide (September 2019) is also pertinent and explains (using case studies and examples of good practice) how the Government's expectations for high quality design can be delivered.
- 9.32. Saved Policies C28 and C30 of the CLP 1996 exercise control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context. New housing development should be compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.
- 9.33. Policy ESD15 of the CLP 2015 provides guidance as to the assessment of development and its impact upon the character of the built and historic environment. It seeks to secure development that would complement and enhance the character of its context through sensitive siting, layout and ensuring a high-quality design.
- 9.34. Section 12 of the NPPF is clear that good design is a fundamental to what the planning and development process should achieve. Paragraph 135 of the NPPF states that planning decisions should ensure that developments:
- *will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
 - *are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
 - *are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change*
- 9.35. This proposal represents a significant improvement on the existing situation on site (and the earlier appeal scheme). It would replace the 1950's building with a building that is sharper and more detailed. The elevational detailing of the proposed building is contemporary in nature but, through the use of red bricks, the appropriate siting and scale, it would relate well to the neighbouring civic buildings.
- 9.36. A key characteristic of Queen's Avenue, which connects King's End Character Area with North Street Character Area, is the wide thoroughfare. The four civic buildings (the application site, the adjacent former Police Station, the Fire & Ambulance Station and the former Civic Defence Training Centre, now the Redeemed Christian Church of God) on the western side of the road, with their significant setbacks, offer a sense of spaciousness, which contribute positively to the character and distinctiveness of this road. They also offer a uniform building line.
- 9.37. This proposal would retain that sense of spaciousness and the uniform building line because it would not project forward of the building line of the current building. The proposal seeks to draw reference from adjoining civic buildings to provide continuity, but at the same time provide some identity of its own. Some profiled edging of brickwork, a variety (4) of red brick colours and differing protruding bricks will add texture and shadowing affects and greater depth than the existing building experiences. The use of metal copper surrounds on the front and side (north facing) windows, and the main entrance, accentuate the building features and add interest.
- 9.38. The existing building and the neighbouring former police station both currently have handsome entrances, framed by stone surrounds (layered in the case of Waverley House). The entrance to this proposal has been revised from the first submission to pay homage to that 1950s civic entrance style and is a welcome addition and an important reference to the past.

9.39. The previous appeal proposal, Officers believe, got the materials (which included natural stone and white render) and scale (3,958sqm) wrong as well as the siting. In the Council's Statement of Case Officers observed:

“the proposal would be of a height, bulk and form that would be wholly disproportionate and of a scale inappropriate to its context. Whilst there is a three-storey building (The Technology Studio) to the rear (west) of the appeal site, it does not have the same scale and massing, and it is not in such a prominent position. There is also a certain irony that the current building, which was designed to emulate the neighbouring former Police Station, is now proposed to be demolished and replaced by a building that would completely undermine the former police station building, in terms of scale, siting and materials.

“The siting of this appeal scheme, so close to Queens Avenue, where most of the properties are two storeys, would have a dominating affect and would be keenly felt by people using this route. It would also read as being a tightly packed development with little room for a meaningful landscaping scheme to breathe and give any relief. This is a scheme which would break new ground in the local context and would exceed the height, scale and massing of any comparable building in the context in which the building would be experienced.”

9.40. The Inspector, in paragraphs 11 to 15 of his decision letter, reached the same conclusions that the Council had. He wrote:

11. Variety does not necessarily lead to harm. Whilst the contemporary style design of the proposed building, making a clear distinction between the original building and the new addition, has some merits, the scale and massing of the proposed building would nevertheless be substantial in this location. Although set back from the boundaries and set down at roof level, the overall scale and massing of the proposed building would be significantly larger than the existing building on the site and would be positioned in closer proximity to the front and side boundaries of the site than the existing building. Such positioning would compromise the sense of space and openness and interrupt the established pattern of development in this particular location.

12. These shortcomings would be exacerbated by the proposal's prominent corner position which would be visible from a number of public vantage points along Queens Avenue. The position of the proposed building in close proximity to the boundaries, in particular along the northern boundary overlooking the access along Queens Avenue to the schools and leisure centre at the rear of the site, would be particularly prominent and provide limited opportunity to soften the impact of development through a comprehensive landscaping scheme. The use of contrasting materials contributes to the overall scale of the building, giving it particular prominence in relation to its surroundings.

13. I therefore consider that the proposed development, by virtue of its scale, layout and design, would fail to promote or reinforce the distinctive characteristics of the area and would adversely harm rather than positively contribute to the character and appearance of the area.

14. I have considered the appellant's arguments that the design and layout of the proposed building have been carefully considered in order to provide an innovative design solution to the development of the site and to minimise any impacts on the adjacent properties and the area. However, whilst the use of locally used materials and fenestrations together with the landscaping and the boundary treatment would assist in integrating the proposal with the area, these aspects do not overcome the adverse effects outlined above.

15. *Given the location of the appeal site within the setting of the CA, special attention has to be paid to the desirability of preserving or enhancing the character or appearance of the area. Similarly, a balanced approach is required to assess the effect on the setting of the locally listed building at the Police House as a non-designated heritage asset, in accordance with the National Planning Policy Framework (the Framework). I consider that the appeal scheme, by virtue of its scale, layout and design would have a negative material impact and would fail to preserve or enhance the setting of the CA and would harm the setting of the adjacent locally listed building.*

9.41. Although this proposal would be three stories high (and therefore taller and larger than the historical size and scale of Waverley House) its roof line would be broken up and varied, so it would not appear as one unbroken mass (another problem with the appeal scheme), and, Officers conclude, it would sit very well with the neighbouring former police station building.

9.42. Officers also note that this proposal would have a footprint that is approximately 1363sqm smaller than the appeal proposal. The scale is now far more in keeping with the existing situation and the applicants have got the balance right of making efficient and effective use of the site whilst not undermining the integrity of the area. The height and scale would be comparable with Bicester School and Bicester Leisure Centre behind. Finally, the use of reveals, with a minimum depth of 1000mm, (secured by condition) would add further depth and character to the proposed building; they will make it appear slimmer.

9.43. The proposed bin store, with its red tiled roof and red bricks, is in keeping with the former Police Station next door and the two other civic buildings. It would be a single storey building which is fairly low key in appearance and one that is well screened from Queens Avenue access road, and from the main road.

9.44. Paragraph of the applicants' Arboricultural report advises that the proposal would result in the loss of seven trees,

9.45. Paragraph 8.14 then adds:

"The proposed individual and groups of trees for removal are confined to category C and U (low quality) features set within the confines of the Site and which are largely obscured from view beyond the Site boundaries. As such, their removal will have minimal impact on the amenity value and scene of the wider surrounding area."

9.46. Following an inspection of the site, Officers would agree with that statement. Moreover, the Council's Arboriculturist has raised no objections subject to a pre commencement arboricultural method statement being secured via condition.

9.47. Overall, the shortcomings of the appeal scheme have now been overcome and a far more responsive and sensitive development which references the past has been found.

Heritage

9.48. Policy ESD15 of the CLP 2015 makes it clear that new development to, or near, non-designated heritage assets, should:

"Conserve, sustain and enhance designated and non-designated 'heritage assets' (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG. Proposals

for development that affect non-designated heritage assets will be considered taking account of the scale of any harm or loss and the significance of the heritage asset as set out in the NPPF and NPPG.”

- 9.49. Paragraph 209 of the NPPF states that *“the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”*
- 9.50. Officers are sympathetic to the objectors who have written requesting that this building is retained. In paragraphs 8.3 to 8.5 of the Council’s Statement of Case for the appeal scheme, it was written:

“The demolition of the existing building would result in material harm to a Non-Designated Heritage Asset which is of historical and communal importance to the local context (further details on this point are set out in Jennifer Ballinger’s Conservation Statement in Appendix CDC2).

Considered in isolation, the existing building has a pleasant appearance, but is not remarkable. Its significance lies in its grouping with the other three civic buildings, reflecting the period in which they were erected (the 1950s). These buildings, and their siting, were designed to invoke the attitudes and ideals of that period.

The existing building’s prominent position and general appearance, along with the civic campus it is part of, generates a sense of history and community tradition and, for this reason it should be seen as a heritage asset that continues to form a valued component of the local environment. Its removal would undermine a long-standing association of civic development in the immediate locality which is why the Council’s view is that its retention would be preferable to its replacement.”

- 9.51. The Inspector, however, took a contrary position and in paragraph 30 of his decision letter, he stated that because he had concluded that the significance of the building is low, *“the weight to be afforded to the harm resulting from its loss is also low.”* His decision letter is a material consideration, and, on this basis, Officers accept that the principle of the demolition of this building is now acceptable.
- 9.52. Moreover, in the next paragraph of his decision letter (31), the Inspector commented that the *“existing appeal building currently has a neutral material impact on the significance of the setting of the CA. As such, I consider the demolition and loss of the appeal building in its own right would preserve the setting of the CA.”*
- 9.53. A further material consideration is that subsequent to the appeal decision, the applicants have gone through the Prior Approval process and established that the building can be demolished without planning permission. This is a legitimate fallback position and significant weight should be attached to it.
- 9.54. In light of these material considerations, the demolition of Waverley House is considered to be acceptable.

Residential Amenity

- 9.55. The NPPF identifies, as a core planning principle, that planning should always seek a high quality of design and a good standard of amenity for all existing and future occupants of land and buildings.

- 9.56. Saved Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. These provisions are echoed in Policy ESD15 of the CLP 2015 which states, amongst other things, that new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space.
- 9.57. Given the significant separation distance (approximately 35m) between the proposed residential units in the closest residential buildings on the other side of Queens Avenue, and the significant mature tree coverage outside the site which is being retained, the proposal is unlikely to result in the loss of daylight/sunlight, privacy or overbearing impact on the occupiers of those properties.
- 9.58. All of the new residential accommodation satisfies the space standards set out in the Department for Communities and Local Government's (DCLG's) Technical Housing Standards -Nationally Described Space Standard" (2015). Fifteen of the flats would benefit from dual aspect windows enabling natural cross-ventilation and good levels of amenity for their occupants. The remaining flats will all be served by multiple large horizontal windows. Each flat would also benefit from having its own private balcony.
- 9.59. A small hard and soft landscaped private amenity area is proposed to the rear of the building and, if landscaped well, could be a pleasant feature and experience for the residents.
- 9.60. The Council's Environment Protection Officer has also, subject to conditions, raised no objection from an air quality, noise or light perspective. For these reasons, the proposal accords with Policies C30 and ENV1 of the CLP 1996 and Policy ESD15 of the CLP 2015.

Affordable Housing

- 9.61. The Council is acutely aware that housing delivery is a top planning priority for England, and it shares the Government's objective of increasing housing delivery. House prices are arguably one of the most significant issues facing the South East and there is also a significant need for affordable housing in Bicester: it experiences homelessness and a reliance on temporary accommodation, and the market sales and rental prices are high.
- 9.62. Therefore, it is of very great importance that affordable housing, where a scheme is viable, is delivered as part of all major residential developments in Bicester, either on-site or through an off-site contribution.
- 9.63. This approach is in line with the Government guidance set out in paragraph 64 of the NPPF. This paragraph states that "*where a need for affordable housing is identified, planning policies should specify the type of affordable housing required, and expect it to be met on-site unless:*
- a. *off-site provision or an appropriate financial contribution in lieu can be robustly justified; and*
 - b. *the agreed approach contributes to the objective of creating mixed and balanced communities.*
- 9.64. Paragraph 66 of the NPPF also makes it clear that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly

prejudice the ability to meet the identified affordable housing needs of specific groups.

9.65. In this instance, 10% affordable home ownership would not exceed the level of affordable housing in Bicester and would, instead, contribute to reducing the shortfall in affordable housing provision.

9.66. This need for affordable housing in Bicester is why Policy BSC3 of the CLP 2015 requires residential development with 11 dwellings or more, in 'Bicester', to deliver 30% affordable housing provision. That would equate to 9.6 affordable housing units on site, in this case.

9.67. However, in this instance, Vacant Building Credit (VBC) applies which reduces the amount of affordable housing required from the development from 9.6 affordable houses down to 6.6 affordable houses.

9.68. The NPPF addresses VBC in just one paragraph in the whole document: paragraph 64. This paragraph states that:

"Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount 31"

9.69. The policy intention and practical application of VBC is set out in the PPG:

"The policy is intended to incentivise brownfield development, including the reuse or redevelopment of empty and redundant buildings. In considering how the vacant building credit should apply to a particular development, local planning authorities should have regard to the intention of national policy."

9.70. The PPG explains the process for determining VBC:

"Where there is an overall increase in floorspace in the proposed development, the local planning authority should calculate the amount of affordable housing contributions required from the development as set out in their Local Plan. A 'credit' should then be applied which is the equivalent of the gross floorspace of any relevant vacant buildings being brought back into use or demolished as part of the scheme and deducted from the overall affordable housing contribution calculation. This will apply in calculating either the number of affordable housing units to be provided within the development or where an equivalent financial contribution is being provided. The existing floorspace of a vacant building should be credited against the floorspace of the new development. (4)"

9.71. Although the NPPF/PPG do not set 'criteria', they pose a number of questions:

1. There must be a building.
2. It must be vacant.
3. The building must not be abandoned.
4. The floorspace of the vacant building should be calculated.
5. Whether the building has been made vacant for the sole purposes of redevelopment.
6. Whether the building is covered by an extant or recently expired planning permission for the same or substantially the same development

9.72. For completeness, the worked calculation for this scheme is:

<p>Proposal: Housing development of 32 dwellings</p> <ul style="list-style-type: none"> • Affordable housing requirement: 30% (for a site in Bicester) • Proposed Gross Internal Floor Area (GIA): 2,595sqm • Existing Gross Internal Floor Area (GIA): 833sqm 		
Step 1	Calculate the affordable housing contribution based on the total number of eligible dwellings and the affordable housing percentage required by the Council's affordable housing planning policy (e.g. 30% for Bicester sites)	Affordable housing contribution 32 units x 30% = 9.6 units
Step 2	Calculate the amount of existing floorspace, if any, as a proportion of the proposed floorspace of the development: $E/P \times 100$ (where E = existing floorspace and P = proposed floorspace)	$833 \text{ sqm} / 2595 \text{ sqm} \times 100 = \mathbf{32\%}$
Step 3	Calculate the amount of affordable housing credit: Affordable housing units (Step 1) x Proportion of proposed floorspace that is vacant (Step 2)	$9.6 \text{ units} \times 32\% = \mathbf{3 \text{ units}}$
Step 4	Deduct the affordable housing credit from the policy compliant affordable housing contribution: Affordable housing units (Step 1) – Affordable housing credit (Step 3)	$9.6 \text{ units} - 3 \text{ units} = \mathbf{6.6 \text{ affordable homes (to be delivered on-site)}}$

9.73. I accept that the VBC formula should be applied to this application because:

1. There is a building.

2. It is vacant.
 3. It has been vacant for 8 years which is not long enough to constitute an abandoned building.
 4. As the proposal will be re-using brownfield land the existing floorspace should be calculated
 5. The building was made vacant when it stopped being used as a Magistrates Court and Homes England bought the property before selling it to the applicants, three years later. This means it was not contrived for the building to become vacant for the purposes of this re-development proposal.
 6. There are no extant planning permissions associated with this site.
- 9.74. On this basis, the affordable housing percentage has been reduced from 30% down to 20.6%, which equates to an affordable housing requirement of 6.6 units.
- 9.75. Notwithstanding this, policy BSC3 of the Local Plan, in line with Government guidance, allows for applicants in the district to submit an 'open-book' viability assessment, where the viability of the scheme is a concern.
- 9.76. Paragraph 6 of policy BSC3 also allows for a reduced amount of affordable housing to be delivered if it is demonstrated that the viability of a scheme would be compromised through affordable housing provision. It states:
- "Where development is demonstrated to be unviable with the affordable housing requirements, further negotiations will take place. These negotiations will include consideration of: the mix and type of housing, the split between social rented and intermediate housing, the availability of social housing grant/funding and the percentage of affordable housing to be provided."*
- 9.77. This part of policy BSC3 is triggered in this instance because the applicant has raised concerns over their ability to provide affordable housing either on site, or through an off-site affordable housing contribution. They submitted a viability appraisal (written and prepared by RCA) which concluded that due to current day construction costs the scheme would be unviable with a 100% market housing scheme based on RICS accepted practice of 15.5% to 20% developer profits.
- 9.78. The Council sought an independent review of this viability appraisal and instructed Pathfinder to undertake this work. Pathfinder reached the same conclusion as RCA which is that the proposal is currently not in a position to provide *any* affordable housing.
- 9.79. It should be noted that the property market has experienced significant changes (in house prices and build costs) in recent years. Therefore, the viability of a scheme may be notably different by the time it is implemented, due to uncertainties in relation to aspects of a viability assessment at the application stage, and the potential for changes to market conditions.
- 9.80. In view of the changeable nature of the property market, the practice of reviewing development viability to ensure that proposals are based on an accurate assessment of viability (at the point of delivery or once an agreed percentage of market housing has been sold) has become well established across the country.
- 9.81. Moreover, given the pressing need for affordable housing in Bicester, it is vital that the Council tries to ensure that the appropriate amount of affordable housing is provided in line with Policy BSC3. It is on this basis that Officers informed the applicant that a viability review mechanism should be included in the Section 106 Agreement.

The applicant has agreed to having a viability review mechanism in the S106 Agreement.

- 9.82. The absence of any certainty of affordable housing provision, either on or off-site, is a shortcoming of the scheme and weighs against it in the planning balance.

Highways

- 9.83. Paragraph 114 of the NPPF states that in assessing specific applications for development, it should be ensured that:

- a. appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b. safe and suitable access to the site can be achieved for all users;
- c. the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and
- d. any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

- 9.84. In addition, paragraph 115 highlights that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 9.85. Policy ESD15 of the CLP 2015 states that, *“new development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions. Policy SLE4 states that all development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development, and which have a severe traffic impact will not be supported.”*

- 9.86. The proposal seeks to retain the existing single access point from Queens Avenue. The replacement building, as with the existing building, will be set back from Queens Avenue by 19.2m. This allows for the safe provision of 12 visitor parking spaces, delivery vans and taxi drop offs.

- 9.87. The applicants’ proposal is for the scheme to be a car free development due to its central location close to Bicester Town centre. In principle this would mean there will be significantly less strain on the local road network than most residential developments.

- 9.88. The site is very well placed for access to shops, restaurants, entertainment, and leisure facilities. Public transport links are many and easily reached (bus stop directly outside the front of the site: route 26 to Bicester Village), the site is within 12 minutes walking distance to Bicester North train station, with links to London, and regular bus service to Bicester Village Station and its train links to Oxford and London.

- 9.89. For urban living with all the amenities that follow, this area scores very highly making it a prime location for sustainable residential development. Therefore, this would be the preferable location for a proposed car free development.

- 9.90. In order to help deliver this car free concept, the proposal would provide a significant level of cycle parking spaces inside the building: 64 cycle bays, 1 cargo bay and 1 inclusive bay. Whilst this is well below the amount that OCC Highways are seeking (145 bays, and I note their objection), it equates to an average of 2 cycles spaces per

flat. Given the proximity to the public transport and town centre amenities, I think this would be an acceptable level of cycle provision because not every resident will own or require a bike and some may even store their bikes in their apartments. OCC had also objected on the grounds that there was not enough separate distance between the cycle bays¹. This has now been addressed and the separation distance has been increased from 1.5m to between 2.375m and 3.175m.

9.91. Despite the significant viability issues with the scheme, the applicants have indicated that they are prepared to reduce their profit level and pay the OCC Highways contribution of **£46,880** (to be secured through a s.106 agreement). This money will be spent on:

- Continuous footways (£20,000 each)
- 43 meters of new traffic-free routing across the property frontage (£160 per meter)

9.92. These works would help OCC Highways develop an active transport corridor along this part of Bicester to encourage walking and cycling.

9.93. Paragraph 8 of the applicants Transport Statement also proposes to convert the existing zebra crossing into a parallel crossing. OCC Highways are comfortable with this proposal and request that it is secured via a s278 agreement.

9.94. Officers had concerns that a car free development would be difficult to achieve in practice. Several of the third party consultees also raised concerns that the proposal would have the potential for on-street parking on Kingsclere Road and Queens Court and increased congestion.

9.95. In response to these concerns, the applicants have prepared and submitted a Parking Management Strategy (March 2024). This document sets out a number of measures to ensure that car ownership of the future occupiers will be very limited. For the ease of reference, the key measures would be:

- *The lease agreement for residents will state that car ownership is not permitted and residents parking on site is not permitted.*
- *Provide a Car Park Guide to all residents. The guide will state that the parking of residents cars on site is not permitted. Parking is provided for visitors and operational uses only. The Car Park Guide would include a map of parking options in Bicester (attached). The parking of cars on Queens Court (opposite the site) is not permitted. The Car Park Guide would invite residents of each apartment to provide details of two visitor cars for approval in using on-site visitor spaces. Review annually and manage updates.*
- *The developer would provide a contact number for the management company to a representative of Queens Court. Therefore, if residents at Queens Court become aware of intermittent or regular parking by residents of the development on the cul-de-sac then an official line of complaint is available and the appropriate action can be taken.*
- *Automatic Number Plate Recognition technology will be installed. Therefore, all vehicles on-site are recorded and can be cross-referenced with authorised*

¹ LTN 1/20 states that the length of a standard cycle is approximately 1.8m. Therefore there should be a minimum of 2.0m -2.5m of space between the cycle racks, so that there is adequate space to store / remove cycles.

vehicles. Short stay of unauthorised vehicles (e.g., amazon deliveries) will be permitted.

9.96. The applicants will also:

- *provide a cycle voucher for use at Broadribb Cycles, Bicester. A resident (one person per apartment) can use the voucher to receive 25% off the purchase price up to a maximum of £250 (purchase price of up to £1,000). The voucher can be used for cycle repairs, purchase of a new bicycle and accessories. An example voucher is attached to this statement.*
- *provide a Travel Pack for all apartments. The Travel Pack would raise awareness of travel options apart from the private car. The Travel Pack highlights the health benefits in sustainable travel as well as providing information on cycling, buses and rail travel. A draft Travel Pack has been submitted as part of the planning application documents and would be updated and expanded in the event that planning permission is secured.*

9.97. Moreover, the applicants have agreed to a condition that requires a further, more detailed Parking Management Plan to be submitted prior to the first occupation of the development. This document will provide more precise details, for example, specifying the appropriate person/management company who shall be contacted.

9.98. For the reasons above, I believe the car ownership for the scheme would be very low indeed. A big concern of Members previously (and upheld by the Inspector in the recent appeal case) was the insufficient provision of visitor parking bays. This has been more than addressed through this proposal with 5 more visitor parking bays being provided than required. Whilst the OCC Highways Officer would like to see a greater level of cycle bay provision, he has raised no objections to the proposal on highways safety grounds.

9.99. One final point regarding highway safety, I note that it is proposed to locate the bin storage building near to the northern corner of the site so that it can be picked up along the Queens Avenue access road, a road which leads to St. Mary's Roman Catholic Primary School, Bicester Leisure Centre and Bicester Community College.

9.100. This works best from a visual and practical perspective because it simultaneously allows the site to retain its large open frontage and it also avoids the need for refuse vehicles to stop along the main part of Queens Avenue.

9.101. The Council's Waste & Recycling Officer has no objections to this proposed arrangement. The OCC Estates officer has commented that this section of Queens Avenue is not an adopted section of highway, because whilst it is owned by Oxfordshire County Council, it is leased to Activate Learning Education Trust who allow rights of access for the schools and the Leisure Centre. Therefore, the applicants, outside of the planning system, will need to liaise with the Activate Learning Education Trust.

9.102. During the previous appeal scheme, the Council's Waste Team advised that this would not be an issue in that the schools and the leisure centre all have refuse collected from unadopted roads and therefore this site would be no different. NB: I have sought clarity on this matter and will provide a further update at Planning Committee.

9.103. In short, the proposal complies with Policies ESD1 and ESD15 of the CLP 2015 and the NPPF.

Ecology

- 9.104. 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.
- 9.105. Paragraph 186 states that when determining planning applications, local planning authorities (LPAs) should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 9.106. 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.
- 9.107. Policy ESD10 of the CLP 2015 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.108. 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.
- 9.109. 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.
- 9.110. The PPG dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that LPAs should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Assessment

- 9.111. The applicants' updated Ecology Appraisal confirmed that the existing building on site has a bat roost. However, due to the amount of time lapsed since the most recent bat activity surveys, the Council's Ecologist requested that the applicants provide an updated emergence/re-entry surveys.

9.112. The applicants then submitted a Bat Roost Characterisation and Mitigation Report (dated 25 March 2024), prepared by Wharton Natural Infrastructure Consultants. This report concludes that the mitigation measures should include:

- *the provision of one Habitat bat box (or similar), have been to ensure that the favourable conservation status of the species*
- *roosting at the Site is maintained upon completion of the Proposed Development.*
- *A lighting scheme should be designed in accordance with current guidance on bats and lighting (ILP, 2018) to ensure no long-term adverse effects to bat roosts. Lighting detail may be secured through an appropriately worded planning condition.*

9.113. The Council's Ecologist confirmed that the proposed mitigation (to be secured by condition) is sufficient.

9.114. Returning to the Updated Ecology report, Section 4 of this document recommends that the following safeguarding measures should be followed:

- vegetation clearance outside breeding bird season
- precautions for mammals (backramps in excavations, covering piperwork etc)
- An invasive species eradication plan
- A lighting design for biodiversity
- All trees and hedgerows should be protected during construction. Any trees or hedgerows being removed to facilitate the development should be replaced at a 2:1 ratio (this would be mitigation/compensation, not enhancement).

9.115. The Biodiversity Net Gain of the proposal is not known at this stage. Section 4 of the Updated Ecology Appraisal advises that an Ecological Enhancement Plan (EEP) is produced once plans of the Proposed Development have been finalised to assess how the Site can be enhanced for biodiversity. Accordingly, this would be secured by condition. Therefore, subject to appropriate conditions this proposal complies with Policies ESD10 and ESD11 of the CDL 2015 and the NPPF.

Sustainability

9.116. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 150 states that new development should be planned for in ways that:

- a) *avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure; and*
- b) *can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards.*

9.117. Paragraph 151 continues by stating, amongst other things, that *in order to help increase the use and supply of renewable and low carbon energy and heat, plans should:*

- c) *identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.*

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

9.119. Policy ESD2 covers the area of Energy Hierarchy and Allowable Solutions. This policy seeks to achieve carbon emissions reductions, where the Council will promote an 'energy hierarchy' as follows: *Reducing energy use, in particular by the use of sustainable design and construction measures. Supplying energy efficiently and giving priority to decentralised energy supply. Making use of renewable energy Making use of allowable solutions.* Any new development will be expected to take these points into account and address the energy needs of the development.

9.120. Policy ESD3 covers the issue of Sustainable Construction and states amongst other things that *all new residential development will be expected to incorporate sustainable design and construction technology to achieve zero carbon development through a combination of fabric energy efficiency, carbon compliance and allowable solutions in line with Government policy.*

9.121. The Policy continues by stating that *Cherwell District is in an area of water stress and as such the Council will seek a higher level of water efficiency than required in the Building Regulations, with developments achieving a limit of 110 litres/person/day.*

9.122. The Policy also makes clear that *all development proposals will be encouraged to reflect high quality design and high environmental standards, demonstrating sustainable construction methods including but not limited to: Minimising both energy demands and energy loss. Maximising passive solar lighting and natural ventilation. Maximising resource efficiency Incorporating the use of recycled and energy efficient materials. Incorporating the use of locally sourced building materials. Reducing waste and pollution and making adequate provision for the recycling of waste. Making use of sustainable drainage methods. Reducing the impact on the external environment and maximising opportunities for cooling and shading (by the provision of open space and water, planting, and green roofs, for example); and making use of the embodied energy within buildings wherever possible and re-using materials where proposals involve demolition or redevelopment.*

9.123. The applicants' Energy Statement (prepared by Falcon Energy Limited) advises that the building would be fitted with an Air Source Heat Pump system and a Ground Source Heat Pump system would also be installed. It also proposes the use of Solar photovoltaic (PV) technology which is a semi-conductor-based technology that

converts the energy in sunlight into electricity. It recommends that 165 solar panels are installed on the hipped roof of the main part of the building. This would generate 61.05 kWp for the site.

- 9.124. The Energy Statement concludes that these sustainability measures, along with the fact that the built form would be constructed to an improved fabric with better insulation, would yield a 69.58% reduction over the Part L SAP 10 standard.
- 9.125. Based on the above points it is considered that the applicants have demonstrated that the proposal would comply with the requirements of Policies ESD1, ESD2 and ESD3 of the CLP 2015

Drainage

- 9.126. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraphs 173 of the NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that: a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location; b) the development is appropriately flood resistant and resilient; c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate; d) any residual risk can be safely managed; and e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
- 9.127. Paragraph 173 of the NPPF continues by stating that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should: a) take account of advice from the lead local flood authority; b) have appropriate proposed minimum operational standards; c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and d) where possible, provide multifunctional benefits.
- 9.128. Policy ESD6 of the CLP 2015 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding.
- 9.129. Policy ESD7 of the CLP 2015 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District.
- 9.130. The site is located wholly within Flood Zone 1 which is land that has a less than 1 in 1,000 annual probability of river flooding. Notwithstanding this the applicant has provided a surface water drainage strategy in support of the application.
- 9.131. The building will make use of the existing foul sewer connection into Queens Street and will need to confirm there is sufficient capacity with Thames Water.
- 9.132. The proposed surface water drainage strategy is an attenuated discharge to the off-site Thames Water sewer. In the Flood Risk Assessment, it is quoted that Thames Water have stipulated a maximum discharge to which the developer's on-site drainage has been designed.

- 9.133. Both the Local Lead Flood Authority Officer and Thames Water have raised no objections to the proposal.
- 9.134. Similarly, OCC Flood Officer raised no objections on the basis that the approved drainage system shall be implemented in accordance with the approved Detailed Design (BMC-LE-GEN-XXRP-CE-FRA01 FLOODRISKASSESSMENT REVB).
- 9.135. Therefore, this aspect of the proposal complies with ESD6 and ESD 7 of the CLP 2015 and the NPPF.

S106 Contributions

- 9.136. The use of planning obligations to address the impact of development and ensure they are acceptable in planning terms is well established in legislation and national, regional, and local planning policy. The NPPF and Swale Borough Council's Local Plan both recognise the importance of addressing the impacts of development and having effective mitigation in place to ensure that development can be accommodated sustainably.
- 9.137. The Council is keen to ensure that new development (particularly much-needed housing) continues to be delivered, as detailed in its Local Plan and the emerging Local Plan Review. However, new development of this scale and size, which adds to the residential population, places significant additional pressure on the local environment, infrastructure, and public facilities. The Local Plan and Local Plan Review not only sets out plans for the delivery of development but also provides the basis on which development can be delivered sustainably, and in a way that respects environmental limits and resident's quality of life.
- 9.138. In line with this, the Council's Developer Contributions SPD (2018) details requirements required from new development to mitigate impacts associated with development.
- 9.139. The total contribution required to mitigate the impacts of this development is **£291,205.08**
- Highways Works Contribution **£46,880**
 - Bins: **£3,006.72**
 - Secondary School: **£132,948**
 - Secondary School Land Contribution: **£12,200**
 - Outdoor Sports: **£64,544.96**
 - Indoor Sports: **£18,026**
 - Public Art: **£6,400**
 - OCC Monitoring fee: **£4,700**
 - CDC Monitoring Fee: **£2,500**

- 9.140. As discussed in the affordable housing chapter, the viability constraints of the scheme is a material consideration. The advice I have received from Pathfinders, who independently reviewed the applicant's RCA Viability appraisal, sales prices have not kept pace with construction and labour costs post the pandemic and presently, the scheme cannot afford to pay any of the contributions when applying the RICS accepted level of profit between 15.5% and 20%.

- 9.141. Notwithstanding this, the applicants have said that by substantially lowering their profit margin to 2%, there would be enough money in the pot to pay the Highways Works Contribution and the Bins contribution.
- 9.142. The fact that the development will not, at this stage, be able to fully mitigate its own impacts weighs is a concern and weighs against the scheme in the planning balance. However, the applicants have agreed to a viability review mechanism in the s.106 agreement which means that, in the event that the development becomes more viable, further monies will be secured for the remaining infrastructure mitigation measures.

Other Matters

- 9.143. Whilst Officers note the concern of Thames Valley Police (TVP) that the size of the bin storage area might potentially be too big, Officers do not believe it is oversized and would meet the requirements of the residents' waste and needs. Other matters raised by TVP such as the need for automatic closers for the bin stores, cycle storage security, landscaping and lighting plans can be dealt with by condition or informative. The suggestion that merged cores should be removed from the development is not considered appropriate as they are a building regs requirement

10. PLANNING BALANCE AND CONCLUSION

- 10.1. A key objective of the planning system is to bring forward development that is appropriate and in the right place. This is made clear in the NPPF, which states that there should be a presumption in favour of sustainable development.
- 10.2. The site is well-placed for a redevelopment of this scale – it is a sustainable and accessible Brownfield site in a residential area with strong transport connections.
- 10.3. As a piece of architecture, the proposal derives from the best of its context and would improve the character and appearance of the area.
- 10.4. The proposed use would also add to the vitality of the town centre and Bicester housing market and provide more choice for first time buyers and those wanting to downsize. It will also be a development that is not car dependent.
- 10.5. There are disbenefits of the proposal which weigh against the scheme: the absence of affordable housing provision or leisure, education and public art developer contributions, in the first instance, due to viability constraints. That is a shortcoming albeit one that can potentially be improved upon through the viability review mechanism. Therefore, in this context, the harm does not outweigh the benefits, in this specific location.
- 10.6. In summary, the proposal would transform an underused site into an important and valuable piece of townscape, and the delivery of this scheme would be consistent with the broad aims of the NPPF and its presumption in favour of sustainable development.

11. RECOMMENDATION

DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION, SUBJECT TO:

- I. THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND**

II. 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, (AND ANY AMENDMENTS AS DEEMED NECESSARY):

FURTHER RECOMMENDATION: IF THE SECTION 106 AGREEMENT / UNDERTAKING IS NOT COMPLETED AND THE PERMISSION IS NOT ABLE TO BE ISSUED, 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:

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 Part 1, CDC Planning Obligations SPD 2018 and Government guidance contained within the NPPF.

CONDITIONS

Time Limit

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

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

Compliance with Plans

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

Site location Plan PA 100; Existing Site Plan PA 101; Existing Ground Floor Plan PA 102; Existing First Floor Plan PA 103; Existing Roof Plan PA 104; Existing Elevations 1 PA 105; Existing Elevations 2 PA 106; Proposed Site Plan PA 107 Rev A; Cycle Store Plan PA 119 Rev B; Proposed Ground Floor PA 108 Rev B; Proposed First Floor Plan PA 109 A; Proposed Second Floor Plan PA 110 A; Proposed Roof Plan PA 111 A; Proposed Elevations Plan 1 112 A; Proposed Elevations Plan 2 PA 113 A; Updated Preliminary Ecology Report (Sep 2023); Bat Roost Characterisation Report and Mitigation Plan (March 2024); MEC - Acoustics Assessment (August 2023) - 25944-ENV-0402; Energy Statement (August 2023); BMC-LE-GEN-XXRP-CE-FRA01 FLOODRISKASSESSMENT REV B

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

Materials

3. No development of the building and associated structures above slab level, with the exception of underground enabling works, shall take place until samples including sample panels of the materials to be used in the construction of the external surfaces has been prepared on site for inspection and approved in writing by the Local Planning Authority. The samples and panels shall be at least 2.5m x 2.5m and show the proposed palette of materials (including plant screening, metal cladding, brickwork/masonry, etc.) to be used in the development. The development shall be constructed in accordance with the approved samples, which shall not be removed from site until the completion of the development.

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 Cherwell Local Plan 2011–2031 Part 1, Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Window Reveals

4. Details of the window reveals which shall be a minimum of 150mm deep, shall be submitted to and approved in writing by the Local Planning Authority prior to the construction of the development above slab level. The development shall thereafter be completed in accordance with the approved details.

Reason – To ensure that the windows 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 Cherwell Local Plan 2011–2031 Part 1, Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Ecology/Nesting Season

5. All site clearance (including the removal of any vegetation or works to hedgerows) should be timed so as to avoid the bird nesting season, this being during the months of March until July inclusive unless alternative provisions have been previously agreed in writing by the Local Planning Authority.

Should work be required in the nesting season, a pre-works nesting bird check will be required to ensure no nesting birds are present. An Ecological Clerk of works will be required to supervise any vegetation clearance within the nesting bird season (March to July inclusive) and works will adhere any measures to protect the nesting bird interest on the site as required.

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

Ecology/Protected Species

6. Prior to, and within two months of, the commencement of the development, the site shall be thoroughly checked by a suitably qualified ecologist to ensure

that no protected species, which could be harmed by the development, have moved on to the site since the previous surveys were carried out. Should any protected species be found during this check, full details of mitigation measures to prevent their harm shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved mitigation scheme.

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

Ecology Appraisal

7. The development hereby permitted shall be carried out in accordance with the recommendations set out in Ecological Appraisal by Wharton dated September 2023 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect habitats and/or species of importance to nature conservation from significant harm in accordance with the Government's aim to achieve sustainable development as set out in Government guidance contained within the National Planning Policy Framework.

Landscape & Ecology Plan

8. No development shall take place until a Landscape and Ecology Management Plan has been submitted to and agreed in writing by the Local Planning Authority which demonstrates that a biodiversity net gain can be achieved. The scheme of biodiversity enhancement measures identified in the Landscape and Ecology Management Plan, which should include swift bricks and bird boxes, shall be carried out in accordance with the approved details prior to the first occupation of the building.

Reason: To ensure that the proposals deliver appropriate an amount and variety of habitats and support the biodiversity net gain opportunities in accordance with the submitted Environmental Statement to comply with Policy ESD10 of the Cherwell Local Plan Part 1 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Landscaping Scheme

9. Prior to the development progressing above slab level, a Landscaping Scheme for the site shall be provided to and approved in writing by the Local Planning Authority. The Landscaping Scheme shall include:-
 - a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas and written specifications (including cultivation and other operations associated with plant and grass establishment i.e. depth of topsoil, mulch etc),
 - b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,

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

All planting, seeding or turfing comprised in the approved Landscaping Scheme shall be carried out in the first planting and seeding seasons following the occupation of the building(s), or on the completion of the development, whichever is the sooner. All hard landscaping elements shall be provided prior to the first occupation of the building(s).

The planting 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 which 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 Cherwell Local Plan 2011–2031 Part 1, Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Arboricultural Method Statement

10. Prior to the commencement of development, an arboricultural method statement shall be submitted to and improved in writing by the Local Planning Authority. The development shall be carried out in accordance with the statement's recommendations.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity in accordance with Policies ESD10 and ESD13 of the Cherwell Local Plan Part 1 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework.

Residential Travel Plan

11. Prior to the first occupation of the development hereby approved, a Residential Travel Plan, prepared in accordance with the Department of Transport's Best Practice Guidance Note "Using the Planning Process to Secure Travel Plans" and its subsequent amendments (and a Travel Plan Statement setting out how this phase will contribute to the overall site wide Residential Travel Plan), shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Travel Plan shall be implemented and operated in accordance with the approved details.

Reason: In the interests of promoting sustainable transport modes in accordance with Government advice in the National Planning Policy Framework.

Cycle Parking Facilities

12. Prior to the first occupation of the development hereby permitted, the cycle parking facilities as shown on approved plans Cycle Store Plan PA 119 Rev B shall be provided on the site in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The cycle parking

facilities so provided shall thereafter be permanently retained and maintained for the parking of cycles in connection with the development.

Reason: In the interests of promoting sustainable transport modes in accordance with Government advice in the National Planning Policy Framework.

Drainage

13. Prior to the commencement of the development hereby approved, full details of a drainage strategy for the entire site, detailing all on and off site drainage works required in relation to the development, including the prevention of drainage onto the public highway, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the drainage works shall be carried out and completed in accordance with the approved strategy, until which time no discharge of foul or surface water from the site shall be accepted into the public system.

Reason: To ensure that sufficient capacity is made available to accommodate the new development and in order to avoid adverse environmental impact upon the community in accordance with Government guidance contained within the National Planning Policy Framework.

Bin Storage

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

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

Contaminated Land

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

Reason: To ensure that any ground and water contamination is 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 Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Contaminated Land outcome

16. If a potential risk from contamination is identified as a result of the work carried out under condition 15, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's "Land Contamination Risk Management (LCRM)" and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

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

Further Contaminated Land

17. If contamination is found by undertaking the work carried out under condition 16, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's "Land Contamination Risk Management (LCRM)" and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition."

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

Unexpected Contaminated Land at a later date

18. If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

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 Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

Noise

19. Prior to the development commencing full details of the mitigation measures (glazing and alternative means of ventilation) required to achieve satisfactory internal levels in all habitable rooms as specified in BS8233:2014 (Guidance

on sound insulation and noise reduction for buildings) shall be submitted to and approved in writing by the Local Planning Authority.

Thereafter, and prior to the first occupation of the dwellings affected by this condition, the dwellings shall be insulated and maintained in accordance with the approved details.

Reason: In the interests of amenity and sustainable development in accordance with Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Environmental Protection – Lighting

20. Prior to the installation of any external lighting, a full lighting strategy to include illustration of proposed light spill and which adheres to best practice guidance in relation to ecological impact, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved document.

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

CEMP

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

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

Construction Method Statement

22. No development shall take place, including any works of demolition until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The statement shall provide for at a minimum:

- a) The parking of vehicles of site operatives and visitors;
- b) The routeing of HGVs to and from the site;
- c) Loading and unloading of plant and materials;
- d) Storage of plant and materials used in constructing the development;
- e) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

- f) Wheel washing facilities including type of operation (automated, water recycling etc) and road sweeping;
- g) Measures to control the emission of dust and dirt during construction;
- h) A scheme for recycling/ disposing of waste resulting from demolition and construction works;
- i) Delivery, demolition and construction working hours;

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

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

SuDS:

23. The approved drainage system shall be implemented in accordance with the approved Detailed Design (BMC-LE-GEN-XXRP-CE-FRA01-FLOODRISKASSESSMENTREVB) prior to the use of the building commencing:

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

Surface Water Drainage

24. Construction shall not begin until/prior to the approval of first 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 be implemented in accordance with the approved details before the development is completed. The scheme shall include:

- A compliance report to demonstrate how the scheme complies with the “Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire”;
- Full drainage calculations for all events up to and including the 1 in 100 year plus 40% climate change;
- A Flood Exceedance Conveyance Plan;
- Comprehensive infiltration testing across the site to BRE DG 365 (if applicable)
- Detailed design drainage layout drawings of the SuDS proposals including cross-section details;
- Detailed maintenance management plan in accordance with Section 32 of CIRIA
- C753 including maintenance schedules for each drainage element, and;
- Details of how water quality will be managed during construction and post development in perpetuity;
- Confirmation of any outfall details.
- Consent for any connections into third party drainage systems

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with Policies ESD6 and ESD7 of the Cherwell

Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

SuDS As Built and Maintenance Details

25. 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:

- As built plans in both .pdf and .shp file format;
- Photographs to document each key stage of the drainage system when installed on site;
- Photographs to document the completed installation of the drainage structures on site;
- The name and contact details of any appointed management company information.

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

Sustainable Construction

26. Prior to the construction of any building above slab level, details of the materials and measures to be used to increase energy efficiency and thermal performance and reduce carbon emissions including the provision of renewable energy measures including PV 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 of materials and measures and the provision of renewable energy measures shall be installed prior to the first occupation of the building.

Reason: To encourage the use of renewable and low carbon energy in accordance with Policy ESD5 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Final Parking Management Plan

27. Prior to the first occupation, a final updated Parking Management Plan shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highways safety and to maximise opportunities for sustainable transport in accordance with Government guidance contained within the National Planning Policy Framework.