

**Case Officer:** Rebekah Morgan

**Applicant:** Ede Holdings Ltd

**Proposal:** Erection of 6 no. dwellings, with associated open space, landscaping, parking and other associated works

**Ward:** Kidlington East

**Councillors:** Councillor Fiona Mawson, Councillor Ian Middleton and Councillor Linda Ward

**Reason for Referral:** Called in by Councillor Ian Middleton for the following reasons: previous application resulted in a high number of third party concerns. Whilst the current application is less intensive, they do not address all the concerns previously raised.

**Expiry Date:** 21 January 2025

**Committee Date:** 16 January 2025

---

**This application was deferred from the last meeting to enable a Committee Members Site Visit**

**SUMMARY RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS**

**1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site comprises a small parcel of undeveloped land in the corner of Morton Close. The planning history suggests this was intended to be used as a play area and comments from local residents suggests this was used as such until 2019. The site is currently not accessible to the public and is not being managed and therefore currently overgrown.
- 1.2. The site adjoins the turning head at the end of the cul-de-sac. There is a wall to the front of the site with metal gates providing access. The site is surrounded by residential properties.
- 1.3. Morton Close is characterised by two storey, detached and semi-detached dwellings. The dwellings are finished in a mixture of reddish brown and buff bricks with hung tile elements that match the plain roof tiles. The majority of the properties have open fronts and driveways.

**2. CONSTRAINTS**

- 2.1. The following constraints are applicable:
  - The site is within 2km of a Site of Special Scientific Interest (SSSI): Rushy Meadows
  - The site is undeveloped and previously used to provide Public Open Space/Play Area

**3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. The application seeks consent for 6 no., 1 bedroom dwellings with associated open space, landscaping, parking and other associated works.
- 3.2. The development would be provided as a single building; four flats provided in a two storey section to the front and a further 2 dwellings provided within a single storey section to the rear. The development includes a parking area to the front, a bin store and cycle store.
- 3.3. The two storey section of the building measures 15.5m (w) x 8.2m (d) with an eaves height of 4.9m and a ridge height of 7.2m. The single storey section of the building measures 9.8m (w) x 12.7m (d) with an eaves height of 2.3m and a ridge height of 4.8m.
- 3.4. The building would be finished in brick with some hung tile detailing and plain roof tiles.
- 3.5. The application includes outdoor amenity space in the form of some private gardens and some shared space for occupiers of the development.

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

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

23/03351/F: Erection of 9 no. dwellings, with associated open space, landscaping and other associated works. WITHDRAWN

63/00201/NE: 7 pairs of semi-detached dwellinghouses with garages, 9 detached dwellinghouses with garages, construction of estate road, footpaths and provision of play area for children. APPROVED

62/00229/M: 7 pairs type "A" houses, 9 type "B" with road, footpaths, drainage and open space for children. APPROVED

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

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

24/01278/PREAPP: Proposed erection of 8 x dwellings with associated works - re-submission of 23/03351/F.

It is noted that during the course of the pre-application enquiry, an amended scheme for 6 dwellings was submitted and advice was provided on that basis.

The principle of development is supported because there appears to be no legal mechanism to require the play area to be made available to the public, the site is in a sustainable location and the proposed use would not conflict with the surrounding residential use.

The design of the amended scheme was considered to be generally acceptable, and guidance was provided on the use of materials. Suggestions were made regarding the layout of the proposed development and relationship with the neighbouring properties.

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

- 6.1. This application has been publicised by way of a site notice displayed near the site and by letters sent to all properties immediately adjoining the application site that the

Council has been able to identify from its records. The final date for comments was **15 November 2024**, although comments received after this date and before finalising this report have also been taken into account.

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

- The play area was an integral park of the local community
- Deeds for the existing properties clearly state there is a park for residents' use
- Loss of open space
- The owners of the play area ceased maintaining it and allowed it to become overgrown
- Not suitable due to the flooding and drainage issues in the area
- The play area was required as part of the original development of Morton Close
- Increase in traffic in this small close
- Insufficient parking provision – OCC guidance requires 1 visitor space per 5 dwellings; this development has 6 dwellings so should include 2 visitor spaces
- Impact on wildlife
- No indication of what is intended in the large space at the back
- Morton Close is unsuitable for large construction vehicles
- Impact of construction on existing residents
- Out of keeping – proposes 1 bedroom properties and the surrounding area is three bedroom family homes
- Overlooking of neighbouring property
- Impact on light to neighbouring properties
- Bin store adjacent to neighbouring property – this will attract vermin
- No space for bins to be put out for collection
- Although the scheme has been reduced from 9 to 6 properties, it is still too much for this site
- Vehicles accessing the site will shine headlights directly into the properties at the end of the close
- Units 5 and 6 will be accessed via a pathway adjacent to the neighbour causing constant noise and disruption
- Neighbour requests a 7ft boundary wall (if the development is approved) to provide security and privacy
- Development not in keeping with the houses in the immediate vicinity

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

## 7. RESPONSE TO CONSULTATION

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

7.2. KIDLINGTON PARISH COUNCIL: **object** to the proposal because of serious concerns about accessibility and parking on the site. The Parish Council also suggests the development could be pushed back further back into the site to allow for additional parking and amenity space. The Parish Council also has concerns about surface water drainage due to existing issues in the area.

7.3. THAMES VALLEY POLICE (DESIGNING OUT CRIME OFFICER): **Comment**; The only advice I can offer at this juncture is to encourage the applicant to incorporate the principles of crime prevention through environmental design as described within the Secured by Design (SBD) Guidance document.

7.4. OCC HIGHWAYS: **No objection**, subject to conditions.

In the current form, the proposal is unlikely to have a severe impact on the local highway network. The proposal seeks create 6 one-bedroom dwellings, all of which will be either apartments or bungalows. There is no proposal to change the current access leading onto the highway.

Parking and cycle parking facilities have been considered. The applicant has provided 7 car parking spaces, this includes 1 visitor car parking space. In addition, the applicant has proposed to provide storage for 18 cycles in line with OCC's guidance which is inclusive of 1 visitor cycle space which is required per room.

7.5. CDC ENVIRONMENTAL PROTECTION OFFICER: No comments regarding air quality, odour or light. Conditions are recommended with regards to noise and contaminated land.

7.6. CDC ECOLOGY OFFICER: Following the submission of further information, **no objection**, subject to conditions.

7.7. CDC ARBORICULTURAL OFFICER: In principle I have no objection to the proposal from an Arboricultural perspective. There are no protected trees within the site, nor is it within the Conservation Area. The site appears to be mostly obscured from public vision, as such proposed tree removals x 3 poor condition, internal to the site have little/no effect to the outside view.

Conditions are recommended requiring an arboricultural method statement, replacement tree planting and adherence to the submitted arboricultural details.

7.8. CDC LOCAL LAND DRAINAGE OFFICER: No comments on the grounds of flooding. A condition is recommended requiring a surface water drainage strategy for the development.

7.9. CDC BUILDING CONTROL: The proposals will require a Building Regulations application.

## 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)

- PSD1: Presumption in Favour of Sustainable Development
- BSC10: Open Space, Outdoor Sport and Recreation Provision
- ESD1: Mitigating and Adapting to Climate Change
- ESD3: Sustainable Construction
- ESD5: Renewable Energy
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment

- ESD15: The Character of the Built and Historic Environment
- VILLAGES 1: Village Categorisation

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

- C28: Layout, design and external appearance of new development
- C30: Design Control

#### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide (2018)
- Kidlington Framework Masterplan
- Technical Housing Standards – Space Standards

### 9. APPRAISAL

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

- Principle of development
- Design and impact on the character of the area
- Residential amenity
- Accessibility, highway safety and parking
- Ecology and Biodiversity Net Gain
- Climate change and sustainability
- Impact on trees
- Drainage and Flooding

#### Principle of Development

- 9.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the District comprises the adopted Cherwell Local Plan 2011-2031 ('CLP 2015') and the saved policies of the Cherwell Local Plan 1996.
- 9.3. The CLP 2015 seeks to allocate sufficient land to meet District-wide housing needs. The overall housing strategy is to focus strategic housing growth at the towns of Banbury and Bicester and a small number of strategic sites outside of these towns, whilst limiting growth in rural areas and directing it towards more sustainable villages, also aiming to strictly control development in the open countryside.
- 9.4. Paragraph 11 of the NPPF states that at the heart of the Framework is a presumption in favour of sustainable development. There are three dimensions to sustainable development, as defined by the NPPF, which require the planning system to perform economic, social, and environmental roles. These roles are interdependent and need to be pursued in mutually supportive ways.
- 9.5. Policy Villages 1 of the CLP 2015 identifies Kidlington as a Category A settlement meaning it is considered to be one of the more sustainable villages within the district. The policy allows for conversions, infilling and minor development. The development would constitute minor development as it would be located within a corner plot at the end of the cul-de-sac.
- 9.6. The proposed site appears to have previously been accessible to the residents as public open space and Policy BSC10 of the CLP 2015 seeks to protect existing sites. However, the planning history shows that the provision of this land as public open

space was not secured via a legal agreement or planning condition, and the land was not transferred to a local authority for this purpose. Unfortunately, this means there is no legal mechanism by which the Council could force the landowner to make the land available for public use which has been demonstrated by the land being closed off for a number of years. Whilst Policy BSC10 of the CLP 2015 seeks to protect existing public open space, with no legal mechanism to require public access, there is no realistic prospect of this becoming publicly accessible again.

- 9.7. Following the publication of the revised NPPF in December 2024, the LPA can no longer demonstrate a 5YHLS. At the time of writing, the LPA cannot confirm the exact housing land supply position. However, this is currently being calculated and will be included in the updated Annual Monitoring Report which is due to be published in February 2025. The tilted balance in paragraph 11d of the NPPF is engaged and states:

*'Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting planning permission unless:*

- i. The application of policies in this Framework that protect area or assets of particular importance provides a strong reason for refusing the development proposed; or*
- ii. 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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination'.*

- 9.8. The application would provide six 1no. bedroom dwellings which would make a small contribution to the Council's Housing Land Supply and provided, starter homes which are needed in the District. The application site is considered to be a sustainable location for residential development, given the local provisions within Kidlington and its good public transport links to larger settlements and housing development would also be compatible with the surrounding land use which is predominantly residential. Therefore, the principle of development is considered to be acceptable, subject to other material planning considerations set out below.

#### Design and impact on the character of the area

- 9.9. Government guidance contained within the NPPF towards achieving well-designed places states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. The NPPF goes on to note that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Further, Paragraph 139 of the NPPF states that 'development that is not well designed should be refused, especially where it fails to reflect local design policies and national guidance on design'.
- 9.10. Paragraph 135 of the NPPF states that planning policies and decision should ensure that developments:
- a) Will function and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
  - b) Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

- c) Are sympathetic to local character and history including the surrounding built environment and landscape setting, while not preventing or discouraging innovation or change (such as increased densities);
  - d) Establish or maintain a strong sense of place, using arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
  - e) Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
  - f) Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 9.11. Policy ESD15 of the CLP 2015 states that: *“New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards.”* The Cherwell Residential Design Guide SPD also encourages development which is locally distinctive and the use of appropriate materials and detailing, but states that new development should avoid the creation of ‘anywhere places’ which do not respond to local context.
- 9.12. Policy C28 of the CLP 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context as well as compatible with existing buildings.
- 9.13. The Cherwell Residential Design Guide states that new development should avoid architectural focus on individual buildings rather than the overall street composition. The SPD goes on to state that individual buildings should be designed to relate well to their neighbours, creating a harmonious overall composition and work with site conditions.
- 9.14. The Kidlington Masterplan SPD, Theme 2: Creating a sustainable community, subheading ‘Securing high design standards’ states that: *“The design of the site layout, access arrangements, scale, massing and appearance will be required to demonstrate a positive relationship with the immediate surrounding context of the site and respect and enhance the townscape character of Kidlington as a whole.”*
- 9.15. The layout for the site provides access and vehicular parking to the front of the building. Amenity space is provided to the rear of the building with a mixture of shared space and private gardens. The cycle storage and bin storage are located to the front; however, they are set behind the existing boundary wall and would not be overly prominent within the street scene.
- 9.16. The immediate context to the application site is one of mainly 2 storey residential dwellings, with a mixture of detached and semi-detached properties. The front elevations of the dwellings in the locality tend to be relatively simple in articulation and appearance, with the dwellings facing on to the road.
- 9.17. The front of the proposed building appears similar to the pairs of semi-detached buildings on Morton Close. The front elevation would align with nos. 34-36 Morton Close which are positioned at the end of the cul-de-sac. It would have a similar massing to the neighbouring properties and the gap between the development and the neighbouring property would be similar to the gaps between existing properties.

The rear single storey section is lower and therefore would not be clearly visible within the street scene.

- 9.18. The layout of dwellings at the end of Morton Close is not symmetrical and therefore the development of this parcel of land in the corner would not be at odds with the character of the area. The proposed materials would reflect the materials used on the existing dwellings.
- 9.19. Given the above, it is considered that when viewing the development from Morton Close, the proposed building would not appear overly prominent or out of keeping with the neighbouring residential development. It is therefore concluded that the proposal accords with Policy ESD15 of the CLP 2015, Policies C28 and C30 of the CLP 1996 and government guidance contained within the NPPF.

#### Residential amenity

- 9.20. Paragraph 135 of the NPPF states that planning decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 9.21. Policy ESD15 of the CLP 2015 states that new development proposals should consider the amenity of both existing and future development, including matters of privacy outlook, natural lighting, ventilation, and indoor and outdoor space.
- 9.22. The properties most likely to be affected by the proposed development are those on either side of the site, these being No 32 and No 34 Morton Close.
- 9.23. No 32 Morton Close is a two storey detached dwelling that has a blank elevation facing the application site. The distance between the front of the proposed development and the side of No 32 Morton Close is approximately 20m, this is in excess of the minimum required distance set out in the Cherwell Residential Design Guide (2018). Therefore adequate outlook and amenity would be provided for the future occupiers of the development when assessing the front elevation. Whilst there would be some overlooking of the rear gardens of No. 32 and other properties in the vicinity, this would not be dis-similar to the relationship between the existing residential properties which overlook neighbouring gardens, therefore this is not considered to be harmful.
- 9.24. No. 34 Morton Close sits immediately adjacent to the proposed building. There would be a gap of approximately 3.2m between the side of the development and the gable elevation of No. 34 Morton Close. The development has one first floor window facing this gable; however, it is a second window serving a living area and the room benefits from a main window with an acceptable outlook to the front.
- 9.25. The single storey section of the proposed development extends the length of the garden at No 34 Morton Close. This section of the development is set back slightly further, being approximately 3.5m away from the boundary. The single storey section has a low eaves height and a shallow roof pitch, which when viewed from the neighbouring garden would not appear overly dominant. The windows in the single storey section would be below the existing height of the boundary and therefore not result in any potential overlooking of the neighbouring properties.
- 9.26. Concerns have been raised regarding the access to the dwellings being adjacent to No. 34 Morton Close. The plans show that three of the dwellings would be accessed from this side. It is not anticipated that noise from pedestrians accessing the properties would have a significantly harmful impact on the neighbouring residents.



- 9.27. Noise and disturbance during construction has been identified as an unacceptable impact on the neighbouring residents by third parties. The Council's Environmental Protection Officer has requested a condition for a Construction Environment Management Plan to ensure working hours etc. are acceptable for a residential area.
- 9.28. With regards to the proposed bin store, it is noted that this is adjacent to an existing property. The bin store will be located behind the existing boundary wall and a condition is recommended to require full details to be submitted to ensure it is enclosed and covered. Bins are normally collected from the public domain and the Council expects them to be placed out for collection day and then returned; this is the standard practice for waste collections in this area.
- 9.29. Additional vehicle headlights shining into the window of properties at the end of the cul-de-sac when accessing the development at night has been identified by a neighbouring resident as a possible problem. The Council's Environmental Protection Officer observed that no control could be exercised and this type of disturbance is considered to be part of normal domestic life, especially where the existing layout of an area has a turning head in front of residential properties.
- 9.30. It is therefore considered that the proposed development would be sited so as to prevent significant or demonstrable harm to any neighbouring residents in terms of loss of light, loss of privacy or overlooking, or the creation of an overbearing impact. Therefore, the proposal is considered to be acceptable in this regard and accords with Policy ESD15 of the CLP 2015, Policy C30 of the CLP 1996 and Government guidance contained within the NPPF.

#### Accessibility, highway safety and parking

- 9.31. Policy ESD15 of the CLP 2015 states, amongst other matters, that new development proposals should: *"Be designed to deliver high quality safe...places to live and work in."* This is consistent with Paragraph 117 of the NPPF which states that: *"Developments should create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles."*
- 9.32. Kidlington is considered to be a sustainable settlement with local facilities and good bus links close by. The proposed development would utilise the existing vehicular access to the property with the provision of 7 parking spaces provided at the front of the site and secure cycle storage. The Local Highway Officer has raised no objection and advised the proposed access and parking layout accords with their guidance.
- 9.33. It is acknowledged that there are concerns from third parties on the matter of parking and highways safety. Whilst it is possible the development could result in some additional pressure on on-street parking, the Local Highways Authority is of the opinion that the proposal would not have a significant detrimental impact on the highway network.
- 9.34. In conclusion, the access, vehicular parking and cycle parking provision are considered to be adequate for the development. The proposal is unlikely to cause significant detrimental impacts on the highway network and is considered acceptable in this regard.

#### Climate change and sustainability

- 9.35. Policies ESD1, ESD3 and ESD5 of the CLP 2015 set out the Council's expectations in terms of climate change and sustainability requirements.

- 9.36. The development site is sustainably located within an existing residential area that is well served by public transport and has a range of local amenities. The submission states the proposal would be built in accordance with Building Regulations which ensure more sustainable methods of construction are utilised on developments.
- 9.37. Policy ESD3 of the CLP 2015 states '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'. The applicant has not provided details of water efficiency methods or rates for the development; however, it is considered that this could be appropriately secured via a planning condition.
- 9.38. The proposal is considered to represent a sustainable development with a sufficient provision of sustainability features. Therefore, the proposal complies with the provisions of ESD1, ESD3 and ESD5 of the CLP 2015.

#### Ecology and Biodiversity Net Gain

- 9.39. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.
- 9.40. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.
- 9.41. Paragraph 187 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.
- 9.42. Paragraph 193 states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 9.43. Policy ESD10 of the Cherwell Local Plan 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.
- 9.44. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:

- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development

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

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
- an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')

- 9.45. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site is overgrown with vegetation and contains some trees, therefore it has the potential to be suitable for a variety of species.
- 9.46. In order for the local planning authority to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, local planning authorities must firstly assess whether an offence under the Regulations is likely to be committed. If so, the local planning authority should then consider whether Natural England would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.
- 9.47. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.
- 9.48. The application is supported by an Ecological Impact and Biodiversity Net Gain Assessment, a Biodiversity Report and a Biodiversity Metric. The Council's Ecologist has assessed the submitted information and raises no objections subject to conditions. It is advised that the reports and proposed mitigation are appropriate for the site.
- 9.49. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

#### Impact on trees

- 9.50. There are a number of existing trees on the site. A tree survey report has been submitted with the application which shows that three trees are recommended for removal, some works are proposed to the remaining trees and tree protection measures are recommended for the duration of construction. The three trees proposed to be removed are all Category U trees (the lowest value) and the report states that two of these trees have a limited useful life expectancy and the other tree is dead.
- 9.51. The Council's Arboricultural Officer has reviewed the submitted information and has no objection to the proposed removal of the trees. The trees are located to the rear of

the site and appear to be mostly obscured from public view. The removal of the trees would have little to no effect on the street scene.

- 9.52. Conditions are recommended to require an arboricultural method statement, replacement planting, and adherence with the submitted arboricultural information.

#### Drainage and Flooding

- 9.53. Kidlington Parish Council and other third parties have raised concerns regarding existing surface water drainage issues in the area. The development is within a Flood Zone 1 and therefore does not require a Flood Risk Assessment.

- 9.54. The Council's Local Land Drainage Officer has raised no objections to the proposal on the grounds of flooding and drainage but has suggested a condition to ensure surface water drainage within the site is adequately dealt with. The condition has been included within the recommendation.

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

- 10.1. For the reasons set out above in this report, the proposal complies with the relevant Development Plan policies and guidance listed at section 8 of this report. The Council cannot currently demonstrate a 5yr Housing Land Supply and therefore paragraph 11d of the NPPF is engaged and therefore more weight should be given to the provision of additional housing.

- 10.2. The principle of minor residential development in Kidlington is acceptable, and it is considered that the proposal would not cause detrimental harm to the character and appearance of the area and would safeguard the living conditions of neighbouring residents. In addition, the proposal would not have an adverse impact upon protected species or the safe and efficient operation of the highway network.

- 10.3. It is concluded that there are no impacts that would significantly and demonstrably outweigh the benefits of providing additional housing, when assessed against the policies of the NPPF as a whole. The proposal is therefore considered to constitute sustainable development and is recommended for approval subject to conditions set out below.

### **11. RECOMMENDATION**

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

#### CONDITIONS

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

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

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

- Application form
- Planning Statement
- Drawing number K54/P/01 Rev B – [Floor plans, elevations and block and location plans]
- Tree survey report, impact appraisal and tree protection details prepared by Venners Arboriculture dated August 2024
- Ecological Impact Assessment and Biodiversity Net Gain Assessment prepared by Windrush Ecology dated November 2024
- Biodiversity Report prepared by Thames Valley Environmental Records Centre dated 10/09/2024.
- Biodiversity Metric

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.

3. A schedule of materials and finishes to be used in the external walls and roofs of the building shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The development shall thereafter be completed in accordance with the approved details.

Reason: To ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. Full details of the enclosures along all boundaries and within the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of those works. Such approved means of enclosure, in respect of those dwellings which are intended to be screened, shall be erected prior to the first occupation of those dwellings.

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

5. Prior to the first occupation of the development hereby approved, full details of the refuse bin storage for the site, including location and compound enclosure details, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of the dwellings, the refuse 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 odour/flies/vermin/litter in accordance with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

6. Notwithstanding the submitted plans, prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details to be first submitted to and

approved in writing by the Local Planning Authority. The covered 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 Policy ESD1 of the Cherwell Local Plan 2015 and Government guidance contained within the National Planning Policy Framework.

7. Prior to the construction of the parking and manoeuvring area of the development hereby approved, full specification details (including construction, layout, surfacing and drainage) of the parking and manoeuvring areas shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the parking and manoeuvring areas shall be provided on the site in accordance with the approved details and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.

Reason: In the interests of highway safety, to ensure the provision of adequate off-street car parking and to comply with Policies ESD7 and ESD15 of the Cherwell Local Plan 2015 and Government guidance contained within the National Planning Policy Framework.

8. The development shall not commence until a Habitat Management and Monitoring Plan (HMMP), prepared in accordance with an approved Biodiversity Gain Plan, has been submitted to and approved in writing by the local planning authority. The HMMP shall include:

- a non-technical summary
- the roles and responsibilities of the people or organisation(s) delivering the HMMP
- the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan
- the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the approved completion date of the development
- the monitoring methodology and frequency in respect of the created or enhanced habitat

Notice in writing shall be given to the local planning authority when the:

- HMMP has been implemented
- habitat creation and enhancement work as set out in the HMMP have been completed.

The created and/or enhanced habitat specified in the approved HMMP shall be managed and maintained in accordance with the approved HMMP or such amendments as agreed in writing by the local planning authority.

Monitoring reports shall be submitted to the local planning authority in writing for approval in accordance with the methodology and frequency specified in the approved HMMP.

Reason: To ensure the development delivers a biodiversity net gain on site in accordance with Schedule 7A of the Town and Country Planning Act 1990.

9. Prior to the commencement of the development hereby approved, including any

demolition and any works of site clearance, a mitigation strategy for badgers (and provision for fox), which shall include details of a recent survey (no older than six months), whether a development licence is required and the location and timing of the provision of any protective fencing around setts/commuting routes, 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 details.

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.

10. No development shall take place (including demolition, ground works, vegetation clearance) until a Biodiversity Improvement and Management Plan (BIMP) has been submitted to and approved in writing by the Local Planning Authority. The BIMP shall include as a minimum:

- a) Location and type of habitats to be retained and enhanced;
- b) Location and type of habitats to be created;
- c) Specification, number and location of bird, bat, invertebrate and hedgehog boxes;
- d) Management measures for each habitat and species box; and
- e) Monitoring regime for ensuring compliance against the Net Gain Plan for the 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, in accordance with the Environment Act 2021 and Government guidance contained within the National Planning Policy Framework.

11. No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include as a minimum:

- a) Risk assessment of potentially damaging construction activities;
- b) Identification of Biodiversity Protection Zones;
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) The times during construction when specialist ecologists need to be present on site to oversee works;
- f) Responsible persons and lines of communication;
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person; and
- h) Use of protective fences, exclusion barriers and warning signs

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan

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

12. No drainage works shall commence until a surface water management strategy has been submitted to and approved in writing by the Local Planning Authority. No hard-standing areas to be constructed until the works have been carried out in accordance with the surface water strategy so approved.

Reason: To prevent environmental and amenity problems arising from flooding in accordance with Policy ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and to comply with Government guidance contained within the National Planning Policy Framework.

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

14. If a potential risk from contamination is identified as a result of the work carried out under condition 13, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

15. If contamination is found by undertaking the work carried out under condition 14, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local



Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

16. If remedial works have been identified in condition 15, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 13. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

17. Prior to the commencement of the development, a Construction Environment Management Plan (CEMP), which shall include details of the measures to be taken to ensure construction works do not adversely affect residential or other sensitive properties on, adjacent to or surrounding the site together with details of the consultation and communication to be carried out with the occupiers of those properties 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 Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

18. The dwellings shall not be occupied until it has been constructed to ensure that it achieves a water efficiency limit of 110 litres person/day and shall continue to accord with such a limit thereafter.

Reason: In the interests of sustainability in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

19. Prior commencement of the development, an arboricultural method statement (in line with BS58737:2012) setting out protective measures and working practices to ensure the retention of T7, T8 and T9 (third party trees), shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the works shall be carried out in accordance with the approved arboricultural method statement

Reason: In the interests of the visual amenities of the area and to comply with good arboricultural practice and government guidance contained within the National Planning Policy Framework.

20. The development hereby approved shall be carried out in accordance with the 'Tree Survey Report, Impact Appraisal and Tree Protection Details' report prepared by Venners Arboriculture dated August 2024.

Reason: To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply 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.

21. Prior to commencement of any works to the trees on the site, full details of replacement tree planting, including number, location, species and size at time of planting shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the replacement tree(s) shall be planted in the first planting season (mid November to end of March) following the removal of the tree(s) for which consent has been granted and any tree which, within a period of five years from being planted dies, is removed or becomes seriously damaged or diseased, shall be replaced in the current/next planting season in accordance with the approved details and the wording of this condition.

Reason: In the interests of the visual amenities of the area and to comply with good arboricultural practice and Government Guidance contained within the National Planning Policy Framework.

#### **Planning Notes**

1. Please note if works are required to be carried out within the public highway, the applicant shall not commence such work before formal approval has been granted by Oxfordshire County Council by way of legal agreement between the applicant and Oxfordshire County Council. This is separate from any planning permission that may be granted. (Contact – 0845 310 1111 or refer to <https://www.oxfordshire.gov.uk/cms/content/dropped-kerbs> for this action).
2. In accordance with mandatory Biodiversity Net Gain requirements, the application is reminded of the requirement to submit a Biodiversity Gain Plan as set out in the PPG 'Biodiversity Net Gain'.

CASE OFFICER: Rebekah Morgan