

**Case Officer:** Jeanette Davey

**Applicant:** Churchill Retirement Living

**Proposal:** Redevelopment for retirement living accommodation for older people comprising 41 no retirement apartments including communal facilities, access, car parking and landscaping

**Ward:** Bicester East

**Councillors:** Councillor Beckett, Councillor Dallimore and Councillor Ford

**Reason for Referral:** Major development

**Expiry Date:** 31 January 2024

**Committee Date:** 11 January 2024

---

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

**MAIN REPORT**

**1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site is located within the Bicester Town confines and was previously currently occupied by four separate private dwellings which have now been demolished. Located mainly along St. John's Street, the site also occupies a prominent position at the junction with St. John's Street and Queens Avenue.
- 1.2. The dwellings previously on the site were two storeys in height whilst on the other side of St. John's Street are similar two storey dwellings along with a three-storey building known as Fane House located on the opposite side of the junction with St. John's Street and Field Street.
- 1.3. To the rear of the site is a public park area onto which properties in Hunt Close front. The rear / southern boundary of the site is also marked by the River Bure.

**2. CONSTRAINTS**

- 2.1. The application site is within Bicester Town Centre and located to the immediate north of the River Bure, a Main River. Due to the location of the River Bure the site is located within an area allocated as Bank Top Width Planning - Development Near Watercourse. As such, any development within this area will require the consent of the Environment Agency. The site is also located within an area of Archaeological Alert identified as part of the Bicester historic core which has shown a possible Anglo Saxon inhumation cemetery and settlement, medieval inhumations and other multi-period features.

**3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. This application seeks planning permission for the re-development of the site with a single building to provide 41 self-contained retirement apartments with the addition of communal facilities and the provision of access, car parking and landscaping. It varies from the extant permission for 38 dwellings allowed at appeal, by the addition of three dwellings within the previously approved roof area, across part of the approved building. Occupiers would be restricted to those aged 60 or over with a spouse aged 55 or over.
- 3.2. The height of the proposed building would be a mix from 2.5 storeys rising to 4 storeys on the part of the site at the junction with St. Johns Street and Queens Avenue. This is the same height as previously allowed at appeal.
- 3.3. The materials proposed include external facing in brick, tile-hanging and render, with concrete tiles and with a flat-roofed section at the road junction. These are the same as those allowed at appeal.
- 3.4. The design and volume vary from that allowed at appeal only to accommodate a punctuation of the roof on all four elevations with a total of fourteen additional dormer windows. The west elevation has additional minor changes with the re-positioning of the rendered section of the elevation and with a minor recess at the southern side of the building.
- 3.5. Access is also as allowed at appeal. It would be provided off a service road alongside St. John's Street, with a single access point leading to the rear of the main block into a surface car park. The number of spaces proposed increases from 14 approved at appeal to 16 proposed in this application.
- 3.6. Landscaping for the remainder of the space around the building would be maintained as landscaped gardens with a patio outside of the communal lounge. Some of the flats will have their own patios and others will have balconies. This is broadly as allowed at appeal, with a minor increase in the amount of hard-paved area.
- 3.7. The size of the site is stated on Page 21 of the Design and Access Statement (D+A) as approximately 0.25 hectares. The ground floor footprint of the building is 971sq.m. and thus it states that the building occupies 39% of the site, allowing 61% to be used for open space, parking and soft landscaping. A Case Officer measurement shows that approximately 22% of the total site would be used for parking and the access road.
- 3.8. *Timescales for Delivery:* The agent advises that work is to commence imminently on the construction of the 38 unit scheme. Demolition has been completed at the time of writing the report.

#### 4. RELEVANT PLANNING HISTORY

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

<b>Application: 21/01818/F</b>	Appeal Allowed (Against Non Determination)	29 April 2022
--------------------------------	--------------------------------------------------	---------------

Redevelopment of the site to form 38 no. Retirement apartments including communal facilities, access, car parking and landscaping

<b>Application: 21/01885/SO</b>	Screening Opinion not requesting EIA	10 June 2021
---------------------------------	-----------------------------------------	--------------

Redevelopment of the site to form 40 no. Retirement apartments including communal facilities, access, car parking and landscaping

**Application: 23/00171/NMA** Permitted 22 February 2023

Minor elevational and internal changes (proposed as non-material amendment to 21/01818/F)

**Application: 23/00751/DISC**

Discharge of Conditions 9 (Watercourse enhancement), 10 (Hard & soft landscaping), 11 (LEMP), 12 (Proposed levels), 18 (Flood plain storage) and 20 (CTMP) of 21/01818/F (appeal reference APP/C3105/W/21/3287556)

**Application: 23/00935/DISC** Permitted 23 August 2023

Discharge of Condition 16 (Proposed drainage layout) of 21/01818/F (appeal reference APP/C3105/W/21/3287556)

**Application: 23/01201/DISC** Permitted 27 June 2023

Discharge of condition 3 (Written Scheme of Investigation) 4 (staged programme of archaeological evaluation) of 21/01818/F

4.2. The appeal that was allowed against non-determination in October 2022 is extant, has made a material commencement on site and is therefore capable of implementation. This Committee stated in its considerations in January 2022 that the application would have been refused had it been determined by Planning Committee. The four reasons for refusal related to:

- a. Highway safety, specifically relating to visibility splay provision
- b. The loss of flood storage
- c. The submission of an inadequate flood risk assessment, and
- d. An inadequate ecological report assessment of the importance of the River Bure, the impact on the river's ecology, an inadequate assessment of the loss of a small watercourse, insufficient detail on the management of the river corridor, how the development would deliver biodiversity net gain and how the development can contribute towards extending the connectivity of habitats up and downstream.

4.3. The Planning Inspector, in allowing the appeal, also considered the context of the absence of a five year housing land supply at that time and the sustainable location of the development. In connection with the Council's proposed reasons for refusal, the agents for the application proceeded to satisfy the Inspector that there would be a proposed increase in flood storage on the site, providing a modest betterment to the wider catchment area; it would function effectively and safely in terms of future flood risk. The Inspector considered that highway safety would not be compromised because the development is on a service road with apparently light traffic and low indicative speeds and that traffic volume would not significantly increase due to the proximity of services within walking distance. The Inspector considered that the baseline as then existed, of relatively limited ecological value of urban residential properties and their disconnect from the river provided scope to enhance the biodiversity value of the site and river corridor with improved permeability and gains in habitats and hedgerow units. He proposed to overcome ecological concerns and secure the retention of the small river tributary with a series of conditions.

## **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 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 **1 November 2023**, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. One objection has been received. The comments raised by the third party are summarised as follows:
- The height of the building proposed is out of context and will now totally dominate the street.
  - Will make the existing parking problems worse.
- 6.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

## 7. RESPONSE TO CONSULTATION

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

### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. BICESTER TOWN COUNCIL: **Object** on the grounds of the height of the building and safety concerns.

### CONSULTEES

- 7.3. OCC HIGHWAYS: **No objections** subject to all conditions applied to the application ref 21/01818/F, if approved. The addition of three units above that which has already been approved is unlikely to result in any perceptible highway or transport related impacts. The access and servicing arrangements remain as previously approved. The provision for parking remains at the same ratio as previously approved and the parking and service area layout is acceptable.
- 7.4. OCC LOCAL LEAD FLOOD AUTHORITY: **No objection** subject to conditions.
- 7.5. OCC ARCHAEOLOGY: **No objection.** 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.
- 7.6. CDC ENVIRONMENTAL PROTECTION: **No objection.** Noise: No additional comments to make providing the comments and recommendations in the submitted technical report are followed in their conclusion. Contaminated Land: No further comments, providing the recommendations are followed. Air Quality: We are satisfied that there will be no significant impact of the development on the local air quality based on the relatively low volume of additional traffic that the development will bring to the site. Odour and Light: No comments.
- 7.7. CDC LAND DRAINAGE: **No objection.** The site extends to the north-east bank of the River Bure which is a Main River. The proposed development footprint is, however, within Flood Zone 1 and access / egress to and from the built development will be entirely by Flood Zone 1. No objections in principle and with advisory notes for the applicant.

- 7.8. CDC BUILDING CONTROL: **No objection.** EV charging points will be required to reflect guidance.
- 7.9. THAMES VALLEY POLICE: **No objection.** Whilst I do not wish to object to this application, I ask that concerns are addressed, with amended plans prior to permission being granted.
- 7.10. THAMES WATER: **No objection.** This catchment is subject to high infiltration flows during certain groundwater conditions. The scale of the proposed development doesn't materially affect the sewer network and as such we have no objection. With regard to surface water drainage, Thames Water would advise that, if the developer follows the sequential approach to the disposal of surface water, we would have no objection.
- 7.11. CDC STRATEGIC HOUSING: A commuted sum in lieu of affordable housing is required.
- 7.12. CDC COMMUNITY INFRASTRUCTURE: CIL Regulation provision listed includes for community hall facilities, outdoor and indoor sport provision and public art.
- 7.13. ENVIRONMENT AGENCY: No response received but response expected.
- 7.14. CDC ECOLOGY: No response received.
- 7.15. CDC ARBORICULTURE: No response received.
- 7.16. CDC CONSERVATION: No response received.
- 7.17. CDC LANDSCAPE SERVICES: No response received.
- 7.18. CDC PLANNING POLICY: No response received.
- 7.19. CDC RECREATION AND LEISURE: No response received.
- 7.20. CDC WASTE AND RECYCLING: No response received.
- 7.21. BBOWT: No response 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 2031 Part 1)

- PSD1: Presumption in Favour of Sustainable Development
- SLE4: Improved Transport and Connections
- BSC1: District Wide Housing Distribution
- BSC2: The Effective and Efficient Use of Land – Brownfield land and Housing Density
- BSC3: Affordable Housing

- BSC4: Housing Mix
- BSC10: Open Space, Outdoor Sport and Recreation Provision
- BSC11: Local Standards of Provision – Outdoor Recreation
- BSC12: Indoor Sport, Recreation and Community Facilities
- ESD1: Mitigating and Adapting to Climate Change
- ESD2: Energy Hierarchy and Allowable Solutions
- ESD3: Sustainable Construction
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems (SuDS)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment
- INF1: 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
- R12: Provision of public open space in association with new residential development

#### 8.3. Other Material Planning Considerations

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

## 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
- Highway impact
- Flooding / drainage impact
- Residential amenity
- S106/Infrastructure
- Sustainable Construction
- Ecology

#### Principle of Development

##### *Policy Context*

- 9.2. 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 parts of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise. Paragraph B88 of the CLP 2015 also highlights that by focusing development in and around the towns of Bicester and Banbury we aim to ensure that the housing growth which the District

needs only takes place in the locations that are most sustainable and most capable of absorbing this new growth.

- 9.3. Policy BSC 2 of the CLP 2015 highlights the importance of effective and efficient use of land and the use of sites. Under this Policy it is highlighted that housing development in Cherwell will be expected to make effective and efficient use of land. The Policy also states that the Council will encourage the re-use of previously developed land in sustainable locations. New housing should be provided on net developable areas at a density of at least 30 dwellings per hectare unless there are justifiable planning reasons for lower density development.
- 9.4. Policy BSC4 covers the issue of providing housing mix and includes the need to provide for a mixed community. It states that opportunities for the provision of extra care, specialist housing for older and/or disabled people and those with mental health needs and other supported housing for those with specific living needs will be encouraged in suitable locations close to services and facilities. The applicant is not providing sheltered housing, but the accommodation is aimed at those who have retired rather than general housing and therefore this policy is of relevance.

#### *Assessment*

- 9.5. The principle of the development has already been tested at appeal and is appropriate for this location. The site would remain in residential use. The proposal would allow for an increase in the level of retirement accommodation within the town centre as supported by Policy BSC4. The proposal also complies with Policies PSD1 and BSC2 of the CLP 2015. Detailed acceptability is subject to other considerations.

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

##### *Policy Context*

- 9.6. Government guidance contained within the NPPF requiring good design states in Paragraph 131 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. Paragraph 139 of the NPPF states that development that is not well-designed should be refused.
- 9.7. 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.
- 9.8. 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.
- 9.9. 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*
- 9.10. The Council's Design Guide seeks to ensure that new development responds to the traditional settlement pattern and character of a town. This includes the use of continuous building forms along principal routes and the use of traditional building materials and detailing and form that respond to the local vernacular.

#### *Assessment*

- 9.11. The previous dwellings on the site were two storey residential dwellings, as are most of the dwellings on the opposite side of St John's Street. The exception to this is Fane House, a three-storey building located at the junction of St. John's Street and Field Street, and the backdrop provided by the five-storey solicitor's office with Travelodge at the roundabout junction of St John's Street with Manorsfield Road.
- 9.12. Whilst the proposed building would appear as a large structure in the street scene when compared to the nearby two-storey dwellings, nothing has changed in terms of height, position, materials and elevational details from that which was allowed at appeal, other than the addition of dormer windows in the roof. The impact of that addition on residential amenity is addressed in a later section of this report.

#### *Conclusion*

- 9.13. The height, design and use of materials is considered appropriate in this town centre location and has been previously allowed at appeal. There are no changes to those three elements of the scheme other than very minor elevational changes, when considering the impact on the character of the area. For these reasons it is considered that, in terms of design and appearance, the development is acceptable and would not warrant a reason to refuse the application.

#### Highway impact

- 9.14. 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; and*
  - c) 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.*

In addition to this 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.* In terms of parking provision paragraph 112 highlights that *maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations that are well served by public transport.* The paragraph continues by stating that, *in town centres, local authorities should seek to improve the quality of parking so that it is convenient, safe and secure, alongside measures to promote accessibility for pedestrians and cyclists.*

- 9.15. Policy ESD15 of the CLP 2015 highlights, amongst other things that in terms of design new development should demonstrate a holistic approach to the design of the public realm to create high quality and multi-functional streets and places that promotes pedestrian movement and integrates different modes of transport, parking and servicing. The principles set out in The Manual for Streets should be followed.

#### *Assessment*

- 9.16. This application seeks to provide a new access point into the site off the existing private service road which runs alongside St. John's Street. This service road allows access to all of the dwellings along this side of St. Johns Street as well as the application site and formerly provided separate access points to the four dwellings which have now been demolished. As part of the proposal the applicant also seeks to reinstate a currently closed access point onto St John's Street.
- 9.17. In considering the issue of access, the Planning Inspector concluded in Paragraph 28 of his decision that *the proposed development, including its site access, would not harm highway safety. As such, it would not conflict with Policy ESD15 of the CLP (2015) , which seeks to ensure that development contributes to, among other things, high quality and multi-functional streets and places in line with principles in the Manual for Streets. Also, the proposal would accord with Paragraph 110(b) (now Paragraph 114(b)) of the Framework in respect of safe and suitable access.* The Local Highway Authority (LHA) has no objection to the addition of three units, subject to conditions.
- 9.18. Turning to the issue of parking, the layout plans show a parking courtyard to the south of the main building with 16 spaces allocated for the use of the residents. The parking provided a ratio of 0.36 spaces per apartment for the scheme that was allowed at appeal and the County Highway Authority note that the provision for parking on this scheme remains at the same ratio. They consider that the parking and service area layout is acceptable.
- 9.19. The LHA advised on the allowed appeal that, given the type of land use development and evidence based comparable parking demand data, its sustainable location and lower car ownership for the demographics of the residents, together with the cycling and mobility scooter use options, the amount of residential car parking provision is acceptable. For these reasons, officers consider the level of parking provision proposed to be acceptable for this type of development in this sustainable / town centre location.

#### *Conclusion*

- 9.20. The access to and from the site would use the private service road along the side of St. John's Street as previously allowed at appeal. Parking and servicing arrangements are acceptable, all subject to condition. The proposal therefore complies with Policy ESD15 of the CLP 2015 as well as the provisions of the NPPF.

#### Flooding / drainage impact

##### *Policy context*

- 9.21. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 173 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.*

9.22. Paragraph 175 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.*

9.23. Policy ESD 6 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.

9.24. Policy ESD 7 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.

#### *Assessment*

9.25. The southern boundary to the application site is marked by the River Bure and, as such, parts of the site are in flood zones 2 and 3 as well as flood zone 1. For this reason, the application is supported by a detailed flood risk assessment (FRA) (The Civil Engineering Practice, updated September 2023). The FRA states in its Non-Technical Summary that, in terms of surface water and flood risk management, the proposed development is suitable at this location:

- Finished floor levels will be set at a minimum of 71.75m AOD thereby providing at least 600mm freeboard above all predicted 1:100 year fluvial flood events for the year 2115.
- Compensatory flood storage will be provided to ensure that the volume of the existing floodplain is maintained.
- The proposed development will incorporate a sustainable drainage system which will discharge surface water at a suitably restricted rate to the watercourse at the southern boundary of the site.
- Foul drainage will be discharged by gravity predominantly via a new connection to the existing 525mm Thames Water public combined sewer located beneath the access road with the remainder discharging to the diverted 225mm public foul sewer to the south of the building.

9.26. The FRA has not been considered by the Environment Agency due to their restricted staffing resources. However, the Planning Inspector for the allowed appeal considered two issues in assessing whether the scheme was acceptable in flood risk terms. First was the sequential test for reasonably available alternative sites. He was satisfied in paragraph 7 of his decision letter that the provisions of Policy ESD6 of the

CLP (2015) had been met. Second was the exception test part of Policy ESD6. In the Inspector's paragraph 8, he had no reason to doubt that the re-engineering of ground levels proposed by the appellant's civil engineering consultant would provide a slight increase in flood storage on the site and would not increase flood risk elsewhere. He was satisfied that the proposal would satisfy the provisions of the NPPF and the Flood Risk PPG and he had no reason to doubt their view that the site would be safe in terms of flood risk. The September 2023 FRA reaches the same conclusion in Paragraph 8.10, that the site will be safe in terms of flood risk. The current proposal therefore has to be considered acceptable in light of the appeal decision. It is considered appropriate to impose a condition requiring details of surfacing for the additional patio and parking areas proposed in this scheme over and above that previously allowed at appeal, to enable the Environment Agency to assess their impact.

- 9.27. In the absence of a response to consultation from the Environment Agency and the Council's Ecologist, it is not possible to confirm whether the Ecological Assessment submitted with the application (Tyler Grange, 28.09.2023) adequately assesses the importance of the river, or the development's impact on its ecology. It is therefore necessary to turn once again to the Planning Inspector's decision. His Paragraph 17 stated the baseline of the relatively limited ecological value of the four urban residential properties and their disconnect from the river. He considered that there was scope to enhance the biodiversity value of the appeal site and the river corridor. This included removing the site's existing riverside walling and fencing barrier, which would improve permeability between the riverside and the site for flora and fauna. Scope on site to provide nature-friendly measures, retention of a waterbody through a planning condition and a suite of conditions covering site clearance, species protection, landscaping, watercourse buffer zone conservation and enhancement, and a landscape and ecological management plan satisfied the Inspector that it would help to secure a suitably holistic, nature-sensitive approach to the development.

#### *Conclusion*

- 9.28. The application site is located within flood zones 1, 2 and 3. The proposed development would ensure that the built form of the apartments would be located within the area of flood zone 1 while an area of the car park would be located within the area of flood zone 3b. The Planning Inspector for the previous decision was satisfied that mitigation could occur through the imposition of conditions. Nothing has changed since that submission other than the addition of two small areas of hardstanding for parking and patio areas. Similarly, they can be mitigated through conditions.
- 9.29. The Inspector concludes, in paragraph 21 of his decision letter on ecological matters that, even without a Modular River Physical (MoRPh) survey of the river, the proposed development would adequately provide for biodiversity, with particular regard to river corridor habitat. He considered that the proposal therefore accords with Policy ESD10 of the CLP 2015 and to the NPPF's approach to conserving and enhancing the natural environment.

#### Residential amenity

- 9.30. 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 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.

- 9.31. The closest neighbouring property is to the immediate south of the building and is known as Newstead which is separated by a distance of approximately 8m from the side of the built form of the development. There is no change to the proposal from that already allowed at appeal in terms of its impact on this property.
- 9.32. It is necessary to consider the additional potential for overlooking provided by the dormer windows in the roof, which are additional to that allowed at appeal. Those on the west elevation would be looking towards a telephone exchange, police station, small area of green space and dwellings on Hunt Close. Those additional windows would be at a distance of approximately 70 metres from the existing dwellings. They would also be no higher than windows on the windows already approved in the four-storey element of the scheme.
- 9.33. Those on the north elevation would be looking towards Fane House and two-storey dwellings on St John's Street. The distance between the existing and proposed dwellings would be approximately 28 metres. This separation distance is considered to be acceptable, particularly in the context of Cherwell Residential Design Guide's separation distances. Section 6.7 of the Guide has principles for amenity space which are the best fit for this application, where property frontage distances are being considered. The Guide includes back-to-back separation distances of 22 metres and first floor habitable room window separation distances of 7m from a neighbouring property. Similar to the west elevation, the window heights are no higher than those already approved on the four-storey corner element of the scheme, which was considered acceptable by the Planning Inspector in paragraph 31 of his decision letter.
- 9.34. Whilst there is a minor change to the floor plan on the proposed east elevation with the addition of a ground floor porch entrance, in terms of the provision of windows, the east elevation would not change from that previously allowed at appeal. As such, the overlooking impact on the neighbour at Newstead would not change from that allowed at appeal.

#### S106/Infrastructure

##### *Policy Context*

- 9.35. Paragraph 55 of the NPPF states that *local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Paragraph 57 continues by stating that planning obligations must only be sought where they meet all of the following tests:*

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

##### *Development Plan*

- 9.36. Paragraph 66 of the NPPF states that exemptions to the need to provide affordable housing should be made *where the site or proposed development provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly). Annex 2, the Glossary, does not define the elderly. However, it includes within the definition of older people those over or approaching retirement age, including the active, newly retired... and whose housing needs can encompass accessible, adaptable general needs housing through to the full range of retirement and specialised housing for those with support or care needs.*

9.37. Policy INF1 of the CLP 2015 covers the issue of Infrastructure. This Policy states, amongst other things, that the *Council's approach to infrastructure planning in the District will identify the infrastructure required to meet the District's growth, to support the strategic site allocations and to ensure delivery by:*

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

9.38. Policy BSC 3 of the CLP 2015 states, amongst other things that at Bicester and elsewhere, all proposed developments that include 11 or more dwellings (gross), or which would be provided on sites suitable for 11 or more dwellings (gross), will be expected to provide at least 35% of new housing as affordable homes on site. The Policy continues by stating that, all qualifying developments will be expected to provide 70% of the affordable housing as affordable/social rented dwellings and 30% as other forms of intermediate affordable homes. Social rented housing will be particularly supported in the form of extra care or other supported housing. It is expected that these requirements will be met without the use of social housing grant or other grant.

9.39. The Council also has a Developer Contributions SPD in place which was adopted in February 2018. It should, however, be noted that this is a general guide and development proposals will continue to be assessed on a case-by-case basis with the individual circumstances of each site being taken into consideration when identifying infrastructure requirements.

#### *Assessment*

9.40. The application is a major development and therefore affordable housing provision needs to be considered in accordance with CDC's Developer Contributions SPD 2018. Paragraph 66 of the NPPF, detailed above, appears to provide an exemption for schemes such as this one. However, there is no specialist provision on site for adaptable housing. Part M4(3) of Schedule 1 to the Building Regulations 2010 states that provision of wheelchair user dwellings must be made sufficient to allow simple adaptation of the dwelling to meet the needs of occupants who use wheelchairs. The following is not provided for in the layout:

- The internal door widths and positions, defined at 3.24 of Part M4(3) and the required clear turning circle within the private entrance area, defined at 3.22 of Part M4(3), do not meet Building Regulation standards for wheelchair accessibility.
- There is no information to confirm that entrance to the ground floor would be step-free.
- There is no on-site manager.
- There is no wheelchair accessible parking.

As such, the scheme does not fall within the category of specialist accommodation other than through an age restriction which was imposed as Condition 25 of the allowed appeal. Inspector decisions do not include reasons for the conditions imposed so an assumption has to be made, which is that the condition was principally to address *the anticipated low parking demand of the development's future residents* (paragraph 29 of his decision).

9.41. The policy requirement is for 30% affordable housing as set out in Policy BSC3 in the CLP 2015 which would equate to 12.3 units with a 70:30 tenure split between rented and shared ownership. As part of the application allowed at appeal, the applicant

provided a Viability Statement of the scheme (Bailey Venning Associates, April 2021) which highlighted that the proposal would not be viable with the cost of providing an element of affordable housing as part of the development. For this reason, that application as submitted was not supported by any S106 contributions such as affordable housing. That viability appraisal was written at a time when the appraisal referred to Brexit and covid uncertainties and it included a return for risk to reflect that.

- 9.42. It is not understood why the current application is lacking a Viability Statement. Changes to market conditions and the increase of three additional dwelling units would alter the viability of the scheme. Similarly, the submitted Planning Statement (Planning Issues, September 2023), fails to acknowledge relevant Local Plan and NPPF policy relating to S106 and Infrastructure requirements.
- 9.43. Paragraph 9.57 of the Officer Report for the earlier application considered by this Committee in January 2022 included that, following an independent review, it was considered that the findings of the Viability Statement were reasonable. The Council's Strategic Housing Officer therefore confirmed that there would be no request for affordable housing contributions at that time. The absence of a S106 agreement therefore did not form a proposed reason for refusal, had the Local Planning Authority determined the application. Similarly, the inspector did not consider viability in his decision-making.
- 9.44. It is necessary to revisit this issue following on from the previous conclusion drawn up for Planning Committee's consideration of application 21/01818/F and the subsequent appeal decision. The absence of provision of S106 contributions conflicts with policies relating to planning obligations in the CLP 2015, the Developer Contributions SPD and with the provisions of the NPPF. The officer recommendation therefore includes a requirement to provide a viability statement, for that statement to be independently assessed and, if shown to be viable, for a contribution to be paid via a S106 agreement. Should the developer fail to agree to that recommendation prior to Planning Committee, the application is recommended for refusal on that ground.
- 9.45. Turning to S106 requirements from the Council's Leisure and Recreation Team, they also sought contributions against the earlier application allowed at appeal. These were discounted for the same viability reasons. It is now necessary to revisit their request, which is for a contribution towards Community Hall facilities, sport provision and public art totalling in excess of £139,000, index-linked. The officer recommendation is repeated as per that for the affordable housing S106 contribution.

#### Sustainable Construction

- 9.46. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 159 states that new development should be planned for in ways that:
- a) avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure; and*
  - b) can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards.*

Paragraph 160 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.*

- 9.47. Policy ESD1 of the CLP 2015 covers the issue of Mitigating and Adapting to Climate Change and includes a criteria under which application for new development will be considered. Included in the criteria is the requirement that development will incorporate suitable adaptation measures to ensure that development is more resilient to climate change impacts. These requirements will include the consideration of, taking into account the known physical and environmental constraints when identifying locations for development. Demonstration of design approaches that are resilient to climate change impacts including the use of passive solar design for heating and cooling. Minimising the risk of flooding and making use of sustainable drainage methods and reducing the effects of development on the microclimate (through the provision of green infrastructure including open space and water, planting, and green roofs).
- 9.48. With regards to Policy ESD2, this covers the area of Energy Hierarchy and Allowable Solutions. This policy seeks to achieve carbon emissions reductions, where the Council will promote an 'energy hierarchy' as follows: Reducing energy use, in particular by the use of sustainable design and construction measures. Supplying energy efficiently and giving priority to decentralised energy supply. Making use of renewable energy Making use of allowable solutions. Any new development will be expected to take these points into account and address the energy needs of the development.
- 9.49. 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. 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. The Policy continues by stating that all development proposals will be encouraged to reflect high quality design and high environmental standards, demonstrating sustainable construction methods including but not limited to: Minimising both energy demands and energy loss. Maximising passive solar lighting and natural ventilation. Maximising resource efficiency Incorporating the use of recycled and energy efficient materials. Incorporating the use of locally sourced building materials. Reducing waste and pollution and making adequate provision for the recycling of waste. 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.
- 9.50. The applicant has made it clear in the Design and Access Statement (Planning Issues, undated) that the flat roof areas of the building provide an ideal location for the positioning of a number of photo-voltaic panels which as they would be located within the valley of the roof the panels would be hidden from view. The applicant also notes that the electricity produced by solar cells is clean and silent and that solar energy is a readily available renewable resource. The applicant continues by stating that the proposed development would also seek to maximise passive solar lighting and natural ventilation and that all areas of the building internally and externally would be lit using low energy lighting and where applicable utilise appropriate daylight and movement sensor controls. With regards to water use the applicant has confirmed that in order

to reduce excessive potable water use, water saving appliances are provided. All apartments would be fitted with flow restrictors, aerated taps and dual flush low capacity cisterns and that all apartments would have shower cubicles rather than baths fitted in their principal bathrooms.

- 9.51. Officers are satisfied that the proposed development would comply with the requirements of the Policy and that the development would be a sustainable proposal in terms of energy use. In the event of any permission being granted a condition would be attached requiring the implementation of these measures outlined by the applicant.

### Ecology Impact

#### *Legislative context*

- 9.52. 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.
- 9.53. 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.
- 9.54. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.
- 9.55. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:
- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
  - (2) That there is no satisfactory alternative.
  - (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.
- 9.56. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipe-lines, transport and works, and

environmental controls (including discharge consents under water pollution legislation).

#### *Policy Context*

- 9.57. 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.*
- 9.58. Paragraph 186 states that when determining planning applications, local planning authorities should apply the following principles: *a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.*
- 9.59. 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.
- 9.60. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.61. 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.
- 9.62. 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.
- 9.63. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

#### *Assessment*

- 9.64. 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 LPAs 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 that protected species aren't affected at each stage (this is known as a 'condition survey').

9.65. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site consists of private garden spaces and built existing dwellings. The site backs onto the River Bure and this area of the site is an area of ecological value.

9.66. 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 whether the development meets the three derogation tests listed above.

9.67. 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.

9.68. The application is supported by protected species survey results for great crested newts and bats (Tyler Grange, September 2023). It concluded in Paragraph 5.1 that *no ecological features of significant ecological importance have been identified within the Site*. Furthermore, the ecology assessment continues by stating in Paragraph 5.2 that *measures outlined in this report to protect locally designated sites, retained habitats and mitigation strategies to ensure no impacts to protected and priority species are minimised can be controlled via a CTMP (Case Officer: thought to mean a CEMP) as a condition of the planning consent*.

9.69. The Council's Ecology Officer and the Environment Agency were consulted but no comments were received. It is therefore necessary to return to the Inspector's decision on the allowed appeal where he concluded in paragraph 20 that a suite of planning conditions will help to secure a suitably holistic, nature-sensitive approach to the development.

9.70. For the above reasons he concluded that the proposal would comply with Policy ESD10 of the CLP 2015 and the relevant paragraphs of the NPPF.

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

10.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise. The NPPF supports this position and adds that proposals that accord with an up-to-date development plan should be approved and those which do not should normally be refused unless outweighed by other material considerations.

10.2. The fallback position of a development allowed at appeal for 38 dwellings which is still extant, and which has commenced on site, carries substantial weight. As such,

matters relating to the principle of development, design, impact on the character of the area, access, highway impact, residential amenity, sustainable construction and ecology have changed little from that allowed at appeal, such that they are considered to be acceptable.

- 10.3. In the absence of responses to consultation, ecological and flooding / drainage issues have to be addressed as per the appeal decision, with a suite of suitable conditions. If this position changes pre-Committee, an update will be provided.
- 10.4. Although the applicant was able to demonstrate that they had a valid viability argument which meant that contributions were not sought in respect of the previously approved appeal scheme, this needs to be reviewed given the amendments to the proposal, i.e., the three additional units, and changes to the market environment. Discussions are ongoing with the applicant in an attempt to resolve this matter.
- 10.5. Subject to the resolution of matters relating to the provision of S106 contributions towards affordable housing, community hall facilities, indoor and outdoor sport provision and public art, and subject to no additional issues being raised by the Ecology Officer and the Environment Agency, the application can be supported and is recommended for approval.

## **11. RECOMMENDATION**

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

- a) Provision of 30% affordable housing off site
- b) Payment of a financial contribution towards sports and recreation provision in the locality of £139,000 (index linked)
- c) Payment of the Council's monitoring costs.

**FURTHER RECOMMENDATION: THE STATUTORY DETERMINATION PERIOD FOR THIS APPLICATION EXPIRES ON 31.01.2024. IF THE SECTION 106 AGREEMENT/UNDERTAKING IS NOT COMPLETED AND THE PERMISSION IS NOT ABLE TO BE ISSUED BY THIS DATE AND NO EXTENSION OF TIME HAS BEEN AGREED BETWEEN THE PARTIES, IT IS FURTHER RECOMMENDED THAT THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT IS GIVEN DELEGATED AUTHORITY TO REFUSE THE APPLICATION FOR THE FOLLOWING REASON:**

1. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate affordable housing, sport and recreation provision 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 Policies INF1, ESD3 and ESD10 of the CLP (2015) and the Developer Contributions SPD (Feb 2018).

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. The development hereby permitted shall be carried out in accordance with the following approved drawings: 10113BS-PA00 Site Location Plan; Site Plan 10113BS-PA01 Rev J; Ground Floor Plan 10113BS-PA02 Rev E; First Floor Plan 10113BS-PA03 Rev E; Second Floor Plan 10113BS-PA04 Rev E; Third Floor Plan 10113BS-PA05 Rev F; Roof Plan 10113BS-PA06 Rev F; Elevations 1, 10113BS-PA07 Rev D; Elevations 2, 10113BS-PA08 Rev E; Elevations 3, 10113BS-PA09 Rev G JBA 21/035-01 and 20247-10.

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. The development shall be carried out in accordance with the written scheme of investigation and timetable approved by application reference 23/01201/DISC dated 27.06.2023.

Reason: To secure the provision of archaeological investigation and the subsequent recording of the remains, to comply with Government guidance contained within the National Planning Policy Framework.

4. Following compliance with the Written Scheme of Investigation referred to in condition 3, the staged programme of work, including all processing, research and analysis necessary to produce an accessible and useable archive, and a full report for publication, shall be submitted to the Local Planning Authority within two years of the completion of the archaeological fieldwork.

Reason: To secure the provision of archaeological investigation and the subsequent recording of the remains, to comply with Government guidance contained within the National Planning Policy Framework.

5. Prior to the first occupation of the development hereby permitted, roof-mounted solar photovoltaics (PV) shall be installed, in accordance with a scheme which shall have been submitted to and approved in writing by the local planning authority. The solar PV shall be retained thereafter.

Reason: To support the delivery of renewable and low carbon energy in accordance with Government guidance contained within the National Planning Policy Framework.

6. Prior to the first occupation of the development hereby permitted, there shall have been submitted to and approved in writing by the local planning authority written confirmation that the development achieves a water efficiency limit of 110 litres/person/day under Part G of the Building Regulations.

Reason: In the interests of sustainability and to ensure a satisfactory form of development, in accordance with Government guidance contained within the National Planning Policy Framework.

7. All site clearance (including the removal of any vegetation or works to hedging)

should be timed to avoid the bird nesting season during the months of March until August inclusive, unless alternative provisions have been previously agreed in writing by the local planning authority.

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

8. The development hereby permitted shall be carried out in accordance with the recommendations set out in the Protected Species Addendum submitted as part of application 21/01818/F (Ref: 13819\_R02, dated 1 October 2021, prepared by Tyler Grange) and the ecological measures in paragraphs 2.1, 2.2, 2.3, 2.4, 2.5 and 2.6 of the Ecological Technical Note (Ref: 13819\_R04b, dated 1 February 2022, prepared by Tyler Grange), 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 Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

9. No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme for the provision, enhancement and management of a buffer zone alongside the watercourse, encompassing all remaining land between the development and the river. The buffer zone scheme shall be free from built development including lighting, domestic gardens and formal landscaping.

The scheme shall include:

- a) plans showing the extent and layout of the buffer zone;
- b) details of habitat creation/ecological enhancements to the river, river bank and river corridor adjacent to the site;
- c) details of any proposed planting scheme, using native species of UK genetic provenance;
- d) details of proposed footpaths, fencing and exterior lighting on the development; and
- e) details demonstrating how the buffer zone will be protected during development and managed over the longer term, including adequate financial provision and named body responsible for management. Measures (a) to (d) will be located, designed and specified to be appropriately sensitive to the nature conservation and ecological corridor function of the river corridor.

Thereafter, the development shall be carried out in accordance with the approved scheme. Any subsequent variations shall be agreed in writing by the local planning authority, in which case the development shall be carried out in accordance with the amended scheme.

Reason: To protect habitats and/or species of importance to nature conservation from significant harm in accordance with Government guidance contained within the National Planning Policy Framework.

10. A) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority the soft and hard landscaping scheme for the site. The landscaping scheme shall include: (i)

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); (ii) seed mixes; (iii) details of existing trees and hedgerows to be retained as well as any 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; and (iv) details of hard landscaping, including hard surfaced areas including pavements, pedestrian areas and steps.

B) Any planting, seeding, turfing and hard landscaping in the part of the site within 8m of its southern-western boundary shall be designed and specified to blend in sympathetically, both visually and ecologically, with the adjacent watercourse buffer zone that is stipulated in condition no 9. Waterbody 1, as illustrated on the Tyler Grange drawing Habitat Features within 8m of the River Bure, shall be retained and protected on site.

C) The approved landscaping scheme shall be implemented no later than the end of the first planting season following completion of the development. The scheme shall be maintained for a period of 5 years from the completion of the development. Any trees and/or shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority agrees any variation in writing.

Reason: To ensure that a satisfactory landscape scheme is provided in the interest of visual amenity of the area and to comply with Policies ESD13 and 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.

11. No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a landscape and ecological management plan (LEMP) for the site, and the watercourse buffer zone. The LEMP shall include long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas on the site (except for privately owned domestic gardens), and the watercourse buffer zone. Thereafter the LEMP shall be carried out as approved, unless otherwise agreed in writing by the local planning authority.

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. Notwithstanding the requirement of condition 17, no development shall take place until there shall have been submitted to and approved in writing by the local planning authority details of all finished floor levels, in relation to existing and proposed site levels and to the adjacent buildings. The floor levels shall be implemented as approved during the construction phase of the development.

Reason: In order to safeguard the visual amenities of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

13. No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a schedule of materials and finishes to be used in the external walls and roofing of the building. The relevant works shall be carried out in accordance with the approved details.

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, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

14. Prior to the construction of the building above slab level, there shall have been submitted to and approved in writing by the local planning authority details of the siting, appearance and colour of any electricity or gas supply meter housings to be located on building external elevations. The relevant works shall be carried out in accordance with the approved details.

Reason: In order to safeguard the visual amenities of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

15. No above ground works shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme for the provision and implementation of foul and surface water drainage. The drainage works shall be implemented in accordance with the approved plans before the first occupation of any of the apartments hereby permitted.

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

16. The drainage scheme approved under application reference number 23/00935/DISC dated 23.08.2023 shall be carried out in accordance with the approved details, prior to first use or occupation of the development hereby permitted.

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

17. The development hereby permitted shall be carried out in accordance with the submitted flood risk assessment (Version 2.3, dated September 2023, prepared by The Civil Engineering Practice), including the following mitigation measures that it details: finished floor levels shall be set no lower than 71.75 metres above Ordnance Datum (AOD), in accordance with paragraph 7.2.3 in the FRA. These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To protect the development and its occupants from the increased risk of flooding in accordance with Policy ESD6 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning

Policy Framework.

18. No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme to provide level for level and volume for volume floodplain storage compensation. This should include details of existing and proposed external site levels, together with proposed building and car park locations in relation to the existing and proposed areas of functional and non-functional flood plain and their interconnectivity to the main river. The scheme as approved shall be fully implemented and subsequently maintained in accordance with its timing/phasing arrangements, or within any other period as may subsequently be agreed in writing by the local planning authority.

Reason: To protect the development and its occupants from the increased risk of flooding in accordance with Policy ESD6 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

19. Any walls or fencing constructed within or around the site shall be designed to be permeable to flood water.

Reason: To prevent obstruction to the flow of flood water, with a consequent increased risk of flooding and to comply with Policy ESD6 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

20. Prior to commencement of any construction or demolition works, there shall have been submitted to and approved in writing by the local planning authority a Construction Traffic Management Plan (CTMP). The CTMP should follow Oxfordshire County Council's template if possible. It should identify: (i) the routing of construction vehicles and management of their movement into and out of the site by a qualified and certificated banksman; (ii) access arrangements and times of movement of construction vehicles (to minimise the impact on the surrounding highway network); (iii) details of wheel cleaning facilities to prevent mud from migrating onto the adjacent highway; (iv) contact details for the Site Supervisor responsible for on-site works; (e) travel initiatives for site-related worker vehicles; (f) parking provision for site-related worker vehicles; (g) details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours; (g) engagement with local residents.

Reason: In the interests of highway safety and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

21. No construction work including site clearance and delivery of materials shall be carried out except between the hours of 07.30 to 18.00 Monday to Friday, and 08.00 to 13.00 on Saturdays, and at no times on Sundays, Bank and Public Holidays.

Reason: In the interests of highway safety and the amenities of local residents and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

22. Prior to the commencement of above ground construction works, there shall have been submitted to and approved in writing by the local planning authority

full details of the junction of the proposed vehicle access and the main carriageway of St Johns Street. The access and junction shall be completed in accordance with the details as approved, prior to occupation of the development.

Reason: In the interests of highway safety and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

23. A Travel Information Pack shall be provided to all new residents of the development within 1 month of occupation, for the first 5 years of its operation.

Reason: In the interests of sustainability and to ensure a satisfactory form of development, in accordance with Government guidance contained within the National Planning Policy Framework.

24. Prior to occupation of the development hereby permitted, the proposed vehicle and cycle parking shall have been completed and made available for use. The vehicle and cycle parking shall be maintained available for that use for the duration of the development unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of sustainability and to ensure a satisfactory form of development, in accordance with Government guidance contained within the National Planning Policy Framework.

25. At no time shall the development hereby permitted be occupied by persons other than: (i) a person of aged 60 years or over; (ii) a person aged 55 years or older, who is living as part of a single household with the person identified in i) who is residing at the development; or iii) a person aged 55 years or older who was living as part of a single household with the person identified in i) who was residing at the development and has since died.

Reason: In order to ensure that a satisfactory level of parking is available for the occupiers in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

#### INFORMATIVES

1. As the site is within 8m of a Main River watercourse a Flood Risk Activity Permit will be required from the Environment Agency before any work commences.
2. No ground within Flood Zones 2 or 3 should be raised or obstructed during the constructed or completed phases of the development.
3. The attenuated discharge from the development will require a S.23 Land Drainage Act consent to be issued by the Environment Agency.

CASE OFFICER: Jeanette Davey