



***Cherwell***

**DISTRICT COUNCIL  
NORTH OXFORDSHIRE**

**CHERWELL DISTRICT COUNCIL**

**TOWN AND COUNTRY PLANNING ACT 1990**

**APPEAL BY VISTRY HOMES LTD**

**LAND EAST OF WARWICK ROAD, BANBURY.**

**LOCAL PLANNING AUTHORITY REF NO: 23/00853/OUT**

**PLANNING INSPECTORATE REF NO: APP/C3105/W/24/3338211**

**PLANNING CONDITIONS UPDATE. JULY 2024.**

Without prejudice to the appeal the following conditions have been drafted:

**1.** No development shall commence until full details of the layout (including the layout of the internal access roads and footpaths), scale, appearance, and landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.

Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

**2.** In the case of the reserved matters, the final application for approval shall be made not later than the expiration of three years beginning with the date of this permission.

Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

**3.** Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

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

**4.** Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out in accordance with the following plans and documents and shall not exceed 170 residential dwellings (Use Class C3):

- Site Boundary Plan. Drawing No. EDP 3253\_D045 Rev B
- Land Use Amount And Access Parameter Plan. EDP3253 D031 Rev D
- Proposed Vehicular Access – Dimensions. Drawing No. 17279 005 Rev P1
- Refuse vehicle – swept path analysis at proposed site access. Drawing No. 17279 006 Rev P1
- Proposed Vehicle Access. 17279\_T\_003 P3

## **5. Construction Environment Management Plan and Construction Traffic Management Plan.**

Prior to the commencement of the development, a Construction Environment Management Plan (CEMP) and Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. It will include details of:

- a) Arrangements for a site walkover survey and any required update surveys undertaken by a suitably qualified Ecologist to ensure that no protected species, which could be harmed by the development have moved onto the site since the previous surveys were carried out. If any protected species are found, details of mitigation measures to prevent their harm shall be required to be submitted;
- b) Risk assessment of potentially damaging construction activities and identification of any licences required;
- c) Identification of 'Biodiversity Protection Zones';
- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) The measures to be taken to ensure construction works reduce the impact on neighbouring and nearby residents through detail of temporary fencing, lighting and construction compounds and management of activity through the construction of development;
- f) Implementation air quality and dust suppression management measures through a Dust Management Plan;
- g) Measures to protect and retain public rights of way through the site during the development's construction lifecycle;
- h) Details of the consultation and communication to be carried out with local residents shall be submitted to and approved in writing by the Local Planning Authority;
- i) A Construction Traffic Management Plan (CTMP) and traffic routing, temporary access and haul roads to ensure construction vehicles, materials and logistics saving measures area managed;
- j) There shall be no piling on the site unless measures are agreed to mitigate and manage the impact of noise and vibration on the site;
- k) Delivery, demolition and construction working hours;

Thereafter the development shall be carried out in accordance with the approved CEMP.

Reason: In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding highway network, road infrastructure and local residents, particularly at morning and afternoon peak traffic times. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

## **6. Surface Water Drainage.**

No development shall commence until a detailed surface water drainage scheme for the site, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is first occupied. The scheme shall include:

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

Reason: To ensure that sufficient capacity is made available to accommodate the new development and in order to avoid adverse environmental impact upon the community in accordance with Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

#### **7. Surface Water Management Scheme.**

Prior to the approval of any related reserved matters, a detailed Surface Water Management Scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be in accordance with the details approved as part of the strategic scheme (Strategic Surface Water Management Scheme) and include all supporting information as listed in the Condition. The scheme shall be implemented in accordance with the approved details and timetable.

Reason: To ensure development does not increase the risk of flooding elsewhere; in accordance with Paragraph 155 of the National Planning Policy Framework (NPPF) and Local and National Standards.

#### **8. Boreholes.**

No development shall take place until a scheme for managing any borehole installed for the investigation of soils, groundwater or geotechnical purposes shall be submitted to and

approved in writing by the local planning authority. The scheme shall provide details of how redundant boreholes are to be decommissioned and how any boreholes that need to be retained, post-development, for monitoring purposes will be secured, protected and inspected. The scheme as approved shall be implemented prior to the occupation of any part of the permitted development.

Reason: To ensure that redundant boreholes are safe and secure, and do not cause groundwater pollution or loss of water supplies in line with paragraph 180 of the National Planning Policy Framework.

### **9. Arboricultural Method Statement**

Prior to the commencement of the development hereby approved, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS.

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 built environment and to comply with Policy C28 of the adopted Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **10. Archaeology.**

No development shall take place until the applicant (or their agents or successors in title) has submitted to and had approved in writing by the local planning authority a programme of archaeological work consisting of a written scheme of investigation and a timetable for that work. The development shall thereafter proceed in accordance with the approved written scheme of investigation and timetable.

Reason: To secure the provision of archaeological investigation and the subsequent recording of the remains, to comply with Government advice in the National Planning Policy Framework (NPPF) (Section 16). This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

### **11. Archaeology.**

Following the approval of the Written Scheme of Investigation referred to in condition 10, and prior to any demolition on the site and the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority within two years of the completion of the archaeological fieldwork.

Reason: To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider

context through publication and dissemination of the evidence in accordance with the NPPF (2023).

## **12. Landscape and Ecology Management Plan**

No development shall commence unless and until a Landscape and Ecology Management Plan (LEMP), has been submitted to and approved in writing by the Local Planning Authority. The LEMP shall include 'integrated provisions for biodiversity within the built environment'. Thereafter, the development shall not be carried out or managed other than in accordance with the approved LEMP.

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.

## **13. Renewable Energy**

As part of any submission for reserved matters, full details of a renewable energy strategy for the site in accordance with Policy ESD5 of the Cherwell Local Plan, shall be submitted and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details prior to the first occupation of any dwelling the renewable energy serves.

Reason: To encourage the use of renewable and low carbon energy in accordance with Policy ESD5 of the Cherwell Local Plan Part 1.

## **14. Travel Plan**

Prior to first occupation on site an updated residential Travel Plan and residential travel information pack is required to be submitted to and approved by the local planning authority. Thereafter the Travel Plan shall be delivered in accordance with the approved details, or similar.

This plan should be produced in accordance with the Oxfordshire County Council guidance document Transport for New Developments, Transport Assessments and Travel Plans (March 2014).

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

## **15. Surface Water.**

Prior to first occupation, a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:

- a) As built plans in both .pdf and .shp file format;
- b) Photographs to document each key stage of the drainage system when installed on site;
- c) Photographs to document the completed installation of the drainage structures on site;

d) The name and contact details of any appointed management company information.

Reason: To ensure that the development/site is served by sustainable arrangements for the disposal of surface water, to comply with Policy ESD6 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government advice in the National Planning Policy Framework.

#### **16. Habitat Management Plan.**

A Biodiversity Net Gain of at least 38% for area habitats and 10% for linear habitats will be achieved, as set out in the Biodiversity Impact Assessment EDP3253\_r006c). No development above ground level shall take place until a detailed Habitat Management and Monitoring Plan (HMMP) setting out the specific management prescriptions for each habitat type on Site, including measures for habitat creation/enhancement and ongoing management and maintenance for at least 30 years to ensure that the target habitat quality and condition is met post development, along with a full monitoring scheme has been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented prior to first occupation of the building.

Reason: To achieve a Net Gain in biodiversity, this information is required prior to commencement as it is fundamental to the acceptability of the proposals.

#### **17. External Lighting.**

Prior to the installation of any external lighting, a full site wide lighting strategy including LUX diagrams and following the latest guidance from the ILP and the BCT Guidance Note 08/23 shall be submitted to and approved in writing by the LPA. The scheme shall be implemented as approved.

Reason: To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2015, saved Policy C28 of the adopted Cherwell Local Plan 1996 and Government guidance within the National Planning Policy Framework.

#### **18. Security.**

Prior to the occupation of each dwelling, a scheme detailing the security measures/ standards to be incorporated within that dwelling with reference to Secured by Design shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with these approved details.

Reason: To deliver high quality safe, attractive, durable and healthy places to live and work in as required by policy ESD15.

#### **19. Noise.**

The development shall be carried out in accordance with the mitigation measures identified in the document titled Noise Impact Assessment dated July 2022 prepared by SLR (ref: 410.06713.00006). Once a final glazing and ventilation strategy has been finalised this should be provided to and approved by the LPA prior to the installation of the glazing including an overheating report where alternative means of ventilation have been provided.

Reason: To deliver high quality safe, attractive, durable and healthy places to live and work in as required by policy ESD15.

## **20. Contamination 1**

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

Reason: To ensure that 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 Policy ENV12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

## **21. Contamination 2**

If contamination is found by undertaking the work carried out under condition [20], prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's "Land Contamination Risk Management (LCRM)" and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

Reason: To ensure that 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 Policy ENV12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

## **22. Contamination 3.**

If remedial works have been identified in condition [20], the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition [21]. 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 Policy ENV12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

### **23. Contamination 4**

Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall be carried out before the development is resumed or continued.

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 Policy ENV12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

### **24. Housing Mix**

A Housing Mix Strategy shall be submitted to and approved in writing by the Local Planning Authority concurrently with, or as part of, the first application for the approval of any reserved matters. The Housing Mix Strategy shall demonstrate how the proposal provides for an appropriate affordable and market housing mix in accordance with Policy BCS4 of the Local Plan 2015. The development shall be implemented in accordance with the approved details.

Reason: To ensure that the proposals deliver an integrated community and well-designed development meet the requirements of Policies BSC4 and ESD15 of the Cherwell Local Plan 2011-2031 and saved policies C28 and C30 of the Cherwell Local Plan 1996 and the aims and objectives of the National Planning Policy Framework. It is expected that the market mix should not significantly differ from the affordable housing mix to ensure appropriate integration of the community.

### **25. Fibre Optic Implementation**

As part of a residential Reserved Matters submission, a strategy shall be submitted to and agreed in writing by the Local Planning Authority to demonstrate the completion of infrastructure to facilitate the provision of fibre optic cable to each property upon the completion of the infrastructure.

The scheme shall be implemented in accordance with the agreed timescales and retained thereafter.

Reason: To provide appropriate and sustainable infrastructure for high speed internet connection in accordance with Policies BSC9 and ESD15 of the Cherwell Local Plan 2011-2031 (Part 1) and the aims and objectives of the National Planning Policy Framework.