



Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

NOTICE OF DECISION

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

Name and Address of Agent/Applicant:

Mercian Developments Ltd
c/o Paul Reeves
Barton Willmore now Stantec
7 Soho Square
London
W1D 3QB

Full Planning Determination

Date Registered: 16th November 2022

Proposal: Erection of new 128-bed residential care home (Use Class C2) together with associated access, parking and landscaping

Location: OS Parcel 6920 East Of Oxford Road And Adjoining And South Of Canal Lane, Bodicote

Parish(es): Banbury

PERMISSION FOR DEVELOPMENT SUBJECT TO CONDITIONS

Cherwell District Council, as Local Planning Authority, hereby **GRANTS** planning permission for the development described in the above-mentioned application, the accompanying plans and drawings and any clarifying or amending information, **SUBJECT TO THE CONDITIONS SET OUT IN THE ATTACHED SCHEDULE.**

The reason for the imposition of each of the conditions is also set out in the schedule.

Cherwell District Council
Bodicote House
Bodicote
BANBURY
OX15 4AA

David Peckford

Assistant Director – Planning and Development

Date of Decision: 14th December 2023

Checked by: Andy Bateson

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

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

5196 LP01 – Site Location Plan;
5196 PL02 Rev B – Proposed Site Plan;
5196 PL03 – Proposed Ground Floor Plan;
5196 PL04 – Proposed First Floor Plan;
5196 PL05 – Proposed Second Floor Plan;
5196 PL06 – Proposed Roof Plan;
5196 PL07 – Proposed Elevations (Sheet 1 of 2);
5196 PL08 – Proposed Elevations (Sheet 2 of 2);
5196 PL09 – Proposed Sectional Elevations;
5196 PL10 – Proposed Refuse Store;
5196 PL13 – Boundary Treatment Plan;
ZTL 101 Rev B – Tree Constraints Plan;
Design & Access Statement by KWL Architects Ltd, Ref: 5196 Rev A, dated 9 November 2022;
Planning Statement by Barton Willmore, now Stantec, Ref: 33629 Rev 1, dated 14 November 2022;
Transport Statement by Connect Consultants, dated November 2022, as updated and revised by Technical Note 1, dated 11 January 2023;
Travel Plan by Connect Consultants, dated November 2022;
Noise Assessment by Hepworth Acoustics, Ref: P22-218-RO1v1, dated November 2022;
Air Quality Assessment by Syntegra Consulting Ref: 22-9316, dated 8 November 2022;
Arboricultural Impact Assessment by Zebra Trees, Ref: ZTL_130 V1 Rev C, dated 5 January 2023;
Landscape Management Plan by Zebra Landscape Architects, Ref: ZLA_1231 V1, dated 10 November 2022;
Preliminary Ecological Appraisal by Zebra Ecology, Ref: ZEL_175 V1, dated 1 September 2022;
Biodiversity Net Gain Plan by Zebra Ecology, Ref: ZEL_175 V2, dated 10 November 2022;
Sustainability & Energy Statement, incorporating Commercial Waste Management Plan by Envision, Ref: ESL 22-0238 Rev V3, dated 10 November 2022;
Drainage Strategy by JPP, Ref: R-FRA-24918-01-Rev A, dated November 2022;
Infiltration Testing Results by JPP, Ref: 24934/MC/AP/L01, dated 31 August 2022;
Phase 1 Contamination & Geotechnical Desk Study Report by JPP, Ref: R-DS-24934-01-00, dated August 2022;
Neighbouring Daylight, Sunlight & Shadow Assessment by Behan, Ref: 20223749, dated 4 November 2022.

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. All site clearance (including the removal of any vegetation or works to hedgerows) shall be timed so as to avoid the bird nesting season, this being during the months of March until July inclusive unless the Local Planning Authority has confirmed in writing that such works can proceed, based on submission of a survey (no more than 48hrs before works commence) undertaken by a competent ecologist to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest on the site as required.

Reason: To ensure that the development will conserve and enhance the natural environment and will not cause significant harm to any protected species or its habitat to comply with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

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

Reason: To ensure that the agreed landscaping scheme is maintained over a reasonable period that will permit its establishment in the interests of visual amenity and to accord with Policy ESD15 of the 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.

5. No development shall commence until a Construction Method Statement, incorporating a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. The CTMP will need to incorporate the following in detail and throughout implementation of development the approved plan must be adhered to:
 - a. The CTMP must be appropriately titled, include the site and planning permission number;
 - b. Routing of construction traffic and delivery vehicles is required to be shown and signed appropriately to the necessary standards/requirements. This includes means of access into the site;
 - c. Details of and approval of any road closures needed during construction;
 - d. Details of and approval of any traffic management needed during construction;
 - e. Details of wheel cleaning/wash facilities – to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway;
 - f. Measures to control the emission of dust and dirt during construction;
 - g. Details of appropriate signing to accord with standards/requirements, for pedestrians during construction works, including any footpath diversions;
 - h. The erection and maintenance of security hoarding / scaffolding if required;
 - i. A regime to inspect and maintain all signing, barriers etc;
 - j. Contact details of the Project Manager and Site Supervisor responsible for on-site works to be provided;
 - k. The use of appropriately trained, qualified and certificated banksmen for guiding vehicles/unloading etc;
 - l. No unnecessary parking of site related vehicles (worker transport etc) in the vicinity – details of where these will park, and occupiers transported to/from site to be submitted for consideration and approval. Areas to be shown on a plan not less than 1:500;
 - m. Layout plan of the site that shows structures, internal roads, site storage, compound, pedestrian routes etc;
 - n. Local residents to be kept informed of significant deliveries and liaised with through the project. Contact details for person to whom issues should be raised with in first instance to be provided and a record kept of these and subsequent resolution;
 - p. Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours; and
 - q. Delivery, demolition and construction working hours.

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. Notwithstanding the submitted details, no development except site clearance and groundworks 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. In addition to the BRE DG 365 Infiltration Testing Results by JPP, Ref: 24934/MC/AP/L01 dated 31 August 2022, the scheme shall include:
- A compliance report to demonstrate how the scheme complies with the “Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire”;
 - Full drainage calculations for all events up to and including the 1 in 100 year plus 40% climate change;
 - A Flood Exceedance Conveyance Plan;
 - Detailed design drainage layout drawings of the SuDS proposals including cross-section details;
 - Detailed maintenance management plan in accordance with Section 32 of CIRIA C753 including maintenance schedules for each drainage element;
 - Details of how water quality will be managed during construction and post development in perpetuity;
 - Confirmation of any outfall details; and
 - 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. No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include as a minimum:
- a) Arrangements for a site walkover survey 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;
 - c) Identification of ‘Biodiversity Protection Zones’;
 - d) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
 - e) The location and timing of sensitive works to avoid harm to biodiversity features;
 - f) The times during construction when specialist ecologists need to be present on site to oversee works;
 - g) Responsible persons and lines of communication;
 - h) The role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person;
 - i) Best practice with regard to wildlife including use of protective fences, exclusion barriers and warning signs.

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, 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 Section 15 of 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.

8. Notwithstanding the submitted details, a schedule of materials and finishes to be used in the external walls and roof(s) of the building shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of those works. The development shall thereafter be completed 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.

9. Prior to their installation on any building hereby approved, full details of any mechanical ventilation or extraction equipment (if applicable and including any air source heat pumps and their associated condenser units) shall be submitted to and approved by the Local Planning Authority. Thereafter the mechanical ventilation shall be installed, brought into use, and retained in accordance with the approved details.

Reason: In order to safeguard the amenities of the area and to minimise the risk of a nuisance arising from smells in accordance with Saved Policy ENV1 of the adopted Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

10. Prior to first occupation details of improvements to provide safe cycling and pedestrian access to the site from Longford Park Road, including, position, layout, construction and drainage have been submitted to and approved in writing by the Local Planning Authority. The improvements shall be constructed in strict accordance with the approved details prior to first occupation.

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.

11. Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities for the ten cycle spaces shown on drawing 5196 PL02 Rev B – Proposed Site Plan shall be provided on the site in accordance with details which shall be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the covered cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.

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

12. Prior to first occupation of the development, a scheme for the provision of the five vehicular electric charging points as shown on drawing 5196 PL02 Rev B – Proposed Site Plan to serve the development, shall be submitted to and approved in writing by the Local Planning Authority. The vehicular electric charging points shall be provided in accordance with the approved details prior to the first occupation of the unit they serve and retained as such thereafter.

Reason: To comply with Policies SLE 4, ESD 1, ESD 3 and ESD 5 of the adopted Cherwell Local Plan 2011-2031 Part 1 and to maximise opportunities for sustainable transport modes in accordance with paragraph 110(e) of the National Planning Policy Framework.

13. Prior to the first occupation of the development hereby approved, a Travel Plan, prepared in accordance with the Department of Transport's Best Practice Guidance Note "Using the Planning Process to Secure Travel Plans" shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Travel Plan shall be implemented and operated in accordance with the approved details.

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

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

15. Details of the external lighting, and security lighting including the design, position, orientation, and any screening of the lighting shall be submitted to and approved in writing by the Local Planning Authority prior to the installation of any such lighting. The lighting shall be installed and operated in accordance with the approved scheme at all times thereafter.

Reason: To protect the amenities of nearby residents and in the interest of biodiversity and to comply with Policies ESD10 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996.

16. No development shall take place until a feasibility assessment and scheme for the provision of on-site renewable energy provision (above any provision required to meet national building standards) has been submitted to and approved in writing by the Local Planning Authority. Where the feasibility assessment demonstrates that on-site renewable energy provision is deliverable and viable, then the renewable energy scheme that has been approved by the Local Planning Authority shall be installed and operational prior to the first occupation of the building and thereafter maintained as such.

Reason: To comply with Policy ESD 5 of the adopted Cherwell Local Plan 2011-2031 Part 1 and the National Planning Policy Framework.

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

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

DEVELOPMENT MONITORING

The Council has identified the development hereby approved as one that it considers appropriate to monitor during construction. We would therefore be grateful if you could let us know of your intention to start the development at least 14 days prior to the commencement of work on site. You can do this by emailing the Council on: monitoring@cherwell-dc.gov.uk and providing us with the following information: application number; application address; and the date you intend to start the development. During the monitoring period, we will be assessing the development against the approved plans, and compliance with any conditions imposed on the permission. It is in your interest to comply with this request as it will help to avoid any unnecessary, and possibly expensive, corrective works.

PLANNING NOTES

1. **Conditions** – the applicant’s attention is drawn to the need to comply with all conditions imposed on this permission. Failure to do so could result in the council serving a breach of condition notice against which there is no right of appeal.

Under the Town and Country Planning (Fees for Applications, Deemed Application, Requests and Site Visits) (England) Regulation 2012 there is a fee payable each time you make a request to discharge any of the conditions attached to this permission. You can apply to discharge more than one condition at the same time. At the time of this decision the fee is £34 per request for householder development and £116 per request in all other cases. The fee may be more when you come to apply for the discharge of condition if the Regulations have been amended. The fee is payable when you submit the details to discharge the condition(s). The Council has ‘1app’ forms for such applications, but their use is not mandatory.

There is no fee for the discharge of conditions on listed building consents.

The Council has eight weeks to respond to applications to discharge conditions, so you will need to make your application in good time before commencing development.

2. **Material Samples** – please note that where any of the above conditions require the approval of materials, material samples are no longer accepted at the Council offices and should in the first instance be left on the application site for the relevant case officer to view and assess in context with its surroundings. Material samples and sample panels should be placed/erected on the site before an application to discharge that condition(s) is submitted.

Should leaving samples on site be impractical then arrangements should be made with the relevant case officer to view samples on site.

3. **Thames Water - water supply** – The developer can request information to support the discharge of Condition 17 by visiting the Thames Water website at thameswater.co.uk/preplanning.

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) and paragraph 38 of the National Planning Policy Framework, the Council has worked positively, creatively and proactively to determine this application within the agreed timescales, having worked with the applicant/agent where necessary and possible within the scope of the application (as set on in the case officer’s report) to resolve any concerns that have arisen, in the interests of achieving more appropriate and sustainable development proposals. Consent has been granted accordingly.

The case officer’s report and recommendation in respect of this application is available to view online at: <http://www.cherwell.gov.uk/viewplanningapp>. The agenda, minutes and webcast recording of the Planning Committee meeting at which this application was determined are also available to view online at: <http://modgov.cherwell.gov.uk/ieListMeetings.aspx?CId=117&Year=0>

NOTICE OF DECISION
TOWN AND COUNTRY PLANNING ACT 1990
(AS AMENDED)

NOTES TO THE APPLICANT

TIME LIMITS FOR APPLICATIONS

By virtue of Sections 91-96 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, planning permissions are subject to time limits. If a condition imposing a time limit has been expressly included as part of the permission, then that condition must be observed. Otherwise, one or other of the following time limits will apply:

Where planning permission is given in outline subject to a condition reserving certain matters for subsequent approval, application for approval of such matters reserved must be made not later than the expiration of 3 years beginning with the date of the outline planning permission and further the development to which the permission relates must be begun not later than the expiration of 2 years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last reserved matters to be approved.

Where the planning permission is complete and is not in outline, the development must be begun not later than the expiration of 3 years from the date on which permission was granted.

OTHER NECESSARY CONSENTS

This document only conveys permission or approval for the proposed development under Part III of the Town and Country Planning Act 1990 and you must also comply with all the bye-laws, regulations and statutory provisions in force in the District and secure such other approvals and permissions as may be necessary under other parts of the Town and Country Planning Act 1990 (as amended), or other legislation.

In particular you are reminded of the following matters:

- The need in appropriate cases to obtain approval under the Building Regulations. **The Building Regulations may be applicable to this proposal. The Building Regulations may be applicable to this proposal. You are therefore advised to contact the District Council's Building Control Manager before starting work on site - Telephone: 01295 227006. Email: Building.Control@Cherwell-dc.gov.uk**
- The need to obtain an appropriate Order if the proposal involves the stopping up or diversion of a public footpath.
- Data supplied by the National Radiological Protection Board (NRPB) and the British Geological Survey (BGS) suggests that the site of this application falls within an area which is potentially at risk from radon. This may require protective measures in order to comply with the Building Regulations if your consent relates to a new dwelling or house extension. Further advice on whether protective measures are required under the Building Regulations can be obtained by contacting the Building Control Manager on 01295 227006 or E-mail at building.control@cherwell-dc.gov.uk
- The need to obtain a separate "Listed Building Consent" for the demolition, alteration or extension of any listed building of architectural or historic interest from the Local Planning Authority.
- The need to make any appropriate arrangements under the Highways Act in respect of any works within the limits of a public highway. The address of the Highway Authority is Oxfordshire County Council, Speedwell House, Speedwell Street, Oxford, OX1 1NE.
- It is the responsibility of the applicant to ascertain whether their development affects any public right of way, highway or listed building.

APPEALS TO THE SECRETARY OF STATE

If you are aggrieved by the decision of the Local Planning Authority to refuse to grant planning permission or grant planning permission subject to conditions, you can appeal to the Secretary of State in accordance with Section 78(1) of the Town and Country Planning Act 1990.

If you wish to appeal, then;

- For **Householder** applications you must do so within **12 weeks** of the date of the decision
- For **Minor Commercial** applications you must do so within **12 weeks** of the date of the decision
- For **all other types** of planning applications, you must do so within **6 Months** of the date of the decision

Unless;

- The decision on the application relates to the same or substantially the same land and the development is already the **subject of an enforcement notice** then you must appeal within **28 days** of the date of the Local Planning Authority's decision on the planning application.
- If an **enforcement notice is served** relating to the same or substantially the same land and development as in your application and if you want to appeal the decision, then you must do so within **28 days** of the service of the enforcement notice, or 6 months (12 weeks for householder and minor commercial) of the date of this decision whichever is the sooner

Forms can be obtained from the **Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN. Tel (0303 444 5000) Or online at www.planningportal.gov.uk/pcs**. The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to them that permission or approval for the proposed development could not have been so granted otherwise than subject to the conditions imposed by the Local Planning Authority, having regard to the statutory requirements, to the provisions of the development order and to any directions given under the order.

In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based its decision on a direction given by them.

PURCHASE NOTICES

If either the Local Planning Authority or the First Secretary of State grants permission or approval for the development of land subject to conditions, the owner may claim that they can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances the owner may serve a purchase notice on the District Council. This notice will require the District Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

COMPENSATION

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is granted subject to conditions by the Secretary of State on appeal or on reference of the application to them.

These circumstances are set out in the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.