

**Planning Statement to Support an Application
Seeking to Vary Conditions of Permission
14/O2121/OUT.**

**Proposed Himley Village, North West Bicester, Middleton
Stoney Road, Bicester, Oxfordshire.**

On behalf of CALA Homes (Cotswolds) Ltd.

Date: January 2025 | Pegasus Ref: P22-2886

LPA Ref: 24/O1670/F

Author: Ben Kelly



Document Management.

Version	Date	Author	Checked/ Approved by:	Reason for revision:
1	29 th May 2024	BK	DH	
2	10 th June 2024	BK	DH	Client comment.
3	14 th January 2024	BK	DH	Amend in-line with ES submission.
4	16 th January 2024	BK	DH	Client comment.



Contents.

1. Introduction.....	1
2. Site Description.....	3
3. Planning History.....	4
4. Application Documents.....	7
5. Legislative Framework.....	8
6. Proposed Amendments.....	9
7. Revised Condition Wording.....	11
8. Policy Framework.....	14
9. Planning Assessment.....	21
10. Conclusions.....	26



1. Introduction

Context

- 1.1. This Planning Statement has been updated following the original submission of application 24/O1670/F in June 2024. The application has been held without being validated following the Council's request for the submission of an EIA Addendum¹. Accordingly, an addendum to the original Environmental Statement has been submitted alongside this revised Planning Statement and the application can now be validated.
- 1.2. Following work since the submission of the current application in June 2024, the Applicant is now able to be more precise about the mix of uses that might come forward for the commercial land. This Planning Statement therefore sets out the amended proposed conditions in-line with the preliminary testing scenario used within the transport assessments that have been used to inform the EIA Addendum which has been submitted alongside this Statement.
- 1.3. The Application Site is allocated for development in the adopted Development Plan for the area and already benefits from an outline planning permission (LPA ref.14/O2121/OUT). In summary, the permission allows for a development of up to 1,700 residential dwellings, a retirement village, flexible commercial floorspace, social and community facilities, land to accommodate an energy centre and land to accommodate a primary school.
- 1.4. The permission was granted in outline, with access, appearance, landscaping, layout and scale all being matters reserved for future determination.
- 1.5. The permission requires the development to be carried out in accordance with a number of approved Parameter Plans (see condition 5) and it is subject to various conditions which require the submission of further information at specified stages of the planning process.
- 1.6. A number of these conditions have been amended through 2no. Non-Material Amendments (NMAs) which must be read alongside the original planning permission. Applications to discharge some conditions have been submitted, and 3no. reserved matters applications have also been approved by the Council (23/OO214/REM – Phase 1A; 23/OO214/REM – Phase 1B; 23/O1586/REM – Phase 2A).
- 1.7. The Site comprises approximately 90ha of agricultural land to the north of the B4030 Middleton Stoney Road, Bicester.
- 1.8. It is located to the west of Bicester and forms part of the wider North West Bicester eco-town area. It is bounded by agricultural land to the north and west, and existing commercial development on the edge of Bicester to the east.
- 1.9. The site is located within Cherwell District Council and is allocated for mixed use development as part of Policy Bicester 1 (North West Bicester Eco-Town) in the Adopted Cherwell Local Plan 2011–2031 Part 1 (July 2015). The site subject to the outline consent (known as “Himley Village”) forms only part of the wider allocation.

¹ This request was set out in a letter from the Council dated 28th June 2024.



Purpose of This Application

- 1.10. The current application seeks permission to carry out development not in accordance with conditions attached to the original planning permission.
- 1.11. The focus of the application is on the type and limits of uses allowed within the mixed use commercial area of the wider site. The application seeks to amend the limits of the conditions whilst retaining the uses already permitted in the area, to better reflect more up to date market requirements.
- 1.12. The changes would assist the early delivery of this important part of the wider mixed use development.

Other Live Application

- 1.13. This application should be read alongside and in the context of the current S96a NMA application (ref.**24/01671/NMA**), which was submitted to the LPA in advance of the current application.
- 1.14. In summary, that application seeks to make non-material amendments to permission ref.**14/02121/OUT**, which update references within the description of development, several conditions and the associated 'Land Use - Parameter Plan 4'. These amendments are designed to replace references to the previous version of the Use Classes Order with the updated references (e.g. Class A1 retail now falls within Class E).

2. Site Description

- 2.1. The Site that was subject to the outline planning permission comprises approximately 90ha of agricultural land to the north of the B4030 Middleton Stoney Road. It is located to the west of Bicester and forms part of the wider North West Bicester eco-town area. The Site is bounded by agricultural land to the north and west, and commercial development on the edge of Bicester to the east.
- 2.2. The Site is located within Cherwell District Council's jurisdiction and is allocated for development as part of Policy Bicester 1 (North West Bicester Eco-Town) in the Adopted Cherwell Local Plan 2011-2031 Part 1 (July 2015). The Site subject to the Outline consent (known as "Himley Village") forms only part of the wider allocation which extends further north of the Site to the north west of the existing settlement boundary of Bicester.
- 2.3. The majority of the Site is an open area of arable land separated by linked hedgerows and characterised by gentle undulating slopes. Whilst the nearest bus stop is located approximately 0.6 miles to the east, there will be new bus services provided as part of the comprehensive development of the area. Bicester Village Railway Station is located approximately 2 miles from the application site which provides services to a number of destinations including London Marylebone, Oxford and High Wycombe. The closest primary school is Kings Meadow Primary School located approximately 700m to the north east, however a new primary school has been approved as part of the Outline consent for Himley Village.
- 2.4. The Site is not within the Green Belt and is not subject to any other restrictive planning designations. It is not within a Conservation Area and does not contain any listed buildings, nor any above-ground structures.
- 2.5. The part of the Site which has been identified for 'Social/Community' and 'Other Uses' and subject of this S73 application, is approximately 6.2ha split into four development parcels. At present, the part of the Site which has been identified for 'Social/Community' and 'Other Uses' and subject of the S73 application, is an open area of arable land separated by linked hedgerows and characterised by gentle undulating slopes. The outline consent for the Himley Village development will alter the baseline conditions with the surrounding area changing to a mixed-use development. The consented 'Land Use- Parameter Plan 4' as part of LPA ref: **14/O2121/OUT** allocates land surrounding the part of the Site which has been identified for 'Social/Community' and 'Other Uses' to the north, west and east as residential land, and therefore the surrounding context is expected to alter to this land use

3. Planning History

3.1. The original outline planning application (ref.14/O2121/OUT) was registered by the LPA on 31st December 2014. The full description of development reads as follows:

“Development to provide up to 1,700 residential dwellings (Class C3) a retirement village (Class C2), flexible commercial floorspace (Classes A1, A2, A3, A4, A5, B1, C1 and D1), social and community facilities (Class D1), land to accommodate one energy centre and land to accommodate one new primary school (up to 2FE) (Class D1). Such development to include provision of strategic landscape, provision of new vehicular, cycle and pedestrian access routes, infrastructure and other operations (including demolition of farm buildings on Middleton Stoney Road).”

3.2. The application was for outline planning permission only, with all matters (access, appearance, landscaping, layout and scale) reserved for future determination. The application was accompanied by a comprehensive suite of technical documents, including an Environmental Statement.

3.3. In October 2019, the Council’s Planning Committee resolved to grant outline planning permission for the development. Following the completion of a Section 106 Agreement to secure various planning obligations, the planning permission was issued on 30th January 2020.

3.4. The planning permission was subject to 53 conditions and the wording of some, has since been amended. Two applications for non-material amendments which sought to change the wording of conditions have been approved.

3.5. Firstly application ref.22/O2375/NMA was approved in September 2022 and amended the trigger for Conditions 7–11. As originally approved, these conditions required details to be submitted and approved prior to the submission of the first reserved matters application. The wording of these conditions has now been amended to read ‘Prior to or alongside’ the submission for the first reserved matters application, meaning that none of these elements now require approval prior to a reserved matters application being submitted, but as approved under this NMA, would need to accompany the first application for reserved matters approval.

3.6. In November 2022, application ref.22/O3492/NMA amended the wording of Conditions 2, 4, 7, 8, 9, 10, 11, 13, 14, 18 and 36. The effect of this was to remove the requirement for the first phase reserved matters application to be a ‘residential’ application, as was originally required by Condition 2. It also amended the requirement to tie commencement of the development to the ‘first phase’ rather than the ‘first residential phase’ as was originally required by Condition 4.

3.7. In respect of the remaining conditions, this approval amended the timing of the submission of the details required to discharge these, so that certain elements would only be required by the submission of an application including the construction of new buildings, and would therefore not be a requirement of an ‘infrastructure only’ application. It also gave provision for the phasing plan required by Condition 7 to evolve and be varied via a further submission if this was required.

- 3.8. A subsequent application was approved in February 2024 to discharge conditions 7 (phasing), 10 (Biodiversity) and 11 (surface water drainage) for the whole site (ref.**23/00207/DISC**).
- 3.9. Condition 2 (as amended) required the RM application for the first phase of the development to be submitted no later than the expiration of three years from the date of the outline permission. The requirement of the condition has been met.
- 3.10. Three RM applications relating to the Site have been approved, these being:
- Reserved Matters for two junctions to provide vehicular and pedestrian access into the site from Middleton Stoney Road (Phase 1A) – ref.**23/00214/REM**.
 - Reserved Matters Application for internal primary and secondary streets (Phase 1B) – ref.**23/01493/REM**.
- 3.11. Reserved Matters for the erection of 123 dwellings (Phase 2A) – ref.**23/01586/REM**. Various other applications have also been submitted to discharge conditions. These include conditions relating to a site wide master plan and design code required under condition 8 (LPA ref.**23/01496/DISC**) and a masterplan for the Other Uses areas – i.e. the commercial land (ref.**23/01558/DISC**). At the time of writing these applications await determination.
- 3.12. More recently, an application seeking to make further non-material amendments to the original consent has been submitted to the Council. This application is yet to be determined at the time of writing. The application seeks:
- Alterations² to the description of development to remove references to former use classes and replace these with the appropriate current use classes. The amended description of development would read:

"Development to provide up to 1,700 residential dwellings (Class C3) a retirement village (Class C2), flexible commercial floorspace (Classes ~~A1, A2, A3, A4, A5, B1, C1 and D1 E, C1 and Sui Generis~~), social and community facilities (Class ~~D1 F.2~~), land to accommodate one energy centre and land to accommodate one new primary school (up to 2FE) (Class ~~D1 F.1~~). Such development to include provision of strategic landscape, provision of new vehicular, cycle and pedestrian access routes, infrastructure and other operations (including demolition of farm buildings on Middleton Stoney Road)."
 - Alterations to the approved 'Land Use - Parameter Plan 4' (592-PL- 103 Rev K) to remove references to former use classes and replace these with the appropriate current use classes.
 - Alterations to Condition 5 to update the reference to the latest revision of the 'Land Use - Parameter Plan 4'.

² The alterations to the description of development as proposed within the NMA application are shown with a **strikethrough** to indicate deletions whilst additions are shown **underlined**.



- Alterations to Condition 8 to update the reference to the latest revision of the 'Land Use - Parameter Plan 4'.
- Alterations to Condition 9 to update the reference to the latest revision of the 'Land Use - Parameter Plan 4'.
- Alterations to Condition 44 to remove references to former use classes and replace these with the appropriate current use classes and to update the reference to the latest revision of the 'Land Use - Parameter Plan 4'.
- Alterations to Condition 45 to remove references to former use classes and replace these with the appropriate current use classes.

3.13. Should the LPA be minded to grant permission for this S73 application, to ensure consistency between decisions and to capture all of the proposed changes (and on the presumption that the LPA will grant the NMA) the current application should be determined after or concurrently with the grant of permission for the aforementioned NMA.



4. Application Documents

4.1. This planning application submission comprises:

- Application Form, Covering Letter, Notices, Certificates;
- EIA Addendum;
- Retail Assessment;
- This Planning Statement.



5. Legislative Framework

- 5.1. Section 73 of the Town and Country Planning Act 1990 sets out the relevant legislation for applications to develop land without compliance with conditions attached to previous grants of permission.
- 5.2. Pursuant to subsection (2), when determining an application made under S73, the LPA must solely consider the question of the conditions subject to which planning permission should be granted. If the authority determines that the alternative conditions are acceptable, they may grant permission accordingly. Should the authority consider that the permission should be granted subject to the same conditions as previously, a S73 application should be refused.
- 5.3. An application cannot be made under S73 where a previous consent was granted subject to a condition requiring that development is begun in a specified time period, and that time period has expired without development having begun. That does not apply in this case.
- 5.4. Planning permission cannot be granted under S73 if the proposed alteration would extend the time limit on a condition which either sets out when a development must be started, or when an application for the approval of reserved matters must be made. This does not apply in this case.
- 5.5. The current application seeks only to modify conditions attached to ref.14/02121/OUT. It would not do so in a way which contravenes the legislation set out at S73 of the Town and Country Planning Act 1990.
- 5.6. Given that the original consent (ref.14/02121/OUT) was granted before 12th February 2024, the current application is not required to comply with the Biodiversity Gain Condition³.

³ Planning Practice Guidance Paragraph: 016 Reference ID: 74-016-20240214

6. Proposed Amendments

6.1. In 2020, the Government published three Statutory Instruments which amended the Use Classes Order 1987. These were:

- The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020
- The Town and Country Planning (Use Classes) (Amendment) (England) (No. 2) Regulations 2020
- The Town and Country Planning (Use Classes) (Amendment) (England) (No. 3) Regulations 2020

6.2. These changes included:

- The withdrawal of the former retail use classes (Use Classes A1 – A5)
- The withdrawal of an employment use class (Class B1)
- The withdrawal of the former Use Classes D1 and D2
- The introduction of a new commercial, business and service class (Use Class E)
- The introduction of the learning and non-residential institutions class (Use Class F.1)
- The introduction of a local community class (Use Class F.2)

6.3. As noted within the originally approved description of development, the outline consent expressly permitted uses within classes A1, A2, A3, A4, A5, B1, and D1. These classes have all been revoked following the enactment of the above referenced changes to the Use Classes Order. The abovementioned NMA application (ref.**24/O1671/NMA**) seeks to regularise the situation.

6.4. Initial marketing advice suggests that the current planning permission for the commercial land is unlikely to be attractive to the market. Some initial concerns from the market feedback include:

- a) A larger anchor retail store is expected to be the market's preferred option.
- b) There is unlikely to be a demand for a large 2,000sqm veterinary surgery.

6.5. In light of the above, the Applicant is seeking to vary conditions 44 and 45 of planning permission ref.**14/O2121/OUT**.

Alterations to Condition 44

6.6. Condition 44 and the accompanying Table 1 set out the size limits for each of the approved use classes within the areas labelled 'Other Uses' and 'Social/Community' on the 'Land Use – Parameter Plan 4'.



- 6.7. Firstly, it is proposed that the wording of the condition is amended to include for the provision of a discount food store (Class E(a)) measuring a maximum of 2,500sqm.
- 6.8. Secondly, the maximum GIA restrictions for all specified uses with the exception of the water treatment plant would be amended.

Alterations to Condition 45

- 6.9. Condition 45 includes a specific reference to the former A1 use class (which would be remedied by granting permission for the live NMA application ref.24/O1671/NMA) and sets limits on the size of retail units within the consented scheme.
- 6.10. It is proposed that the condition is amended, to allow for the provision of a single discount food store which could measure up to 2,500sqm. This dovetails with the first amendment to condition 44 as set out above.

7. Revised Condition Wording

- 7.1. This S73 application seeks to amend the wording of Condition 44 and Condition 45 of permission ref.14/02121/OUT.
- 7.2. The proposed revised wording to the conditions is identified below. Text proposed for deletion is identified in red bold text and is crossed out (for example: ~~deleted~~). Revised wording is identified in red, bold, underlined text (for example: revised wording).

Condition 44

- 7.3. As a result of the aforementioned NMA (which has been presumed to have been granted), Condition 44 states:

No more than a total of 8,000sqm floor space shall be provided for the mixed uses set out in Table 1 and each use shall not exceed the maximum Gross Internal Area for each specified use. These uses shall only be provided within the areas of the site annotated for 'Other Uses' and 'Social/ Community' on 'Land Use Parameter Plan 4' drawing number ~~592-PL-103-Rev-K~~ P22-3093_DE_013.

Table 1

Land Use	Maximum GIA (sqm)
Hotel (Class C1)	2,600sqm
Veterinary Surgery (Class D1 <u>E(e)</u>)	2,000sqm
Pub/Community (Classes A4/D1 <u>Sui Generis/F.2</u>)	400sqm
<u>Retail, Restaurants and Cafés, Financial and Professional Services, Drinking Establishments, and Hot Food Takeaways</u> (Classes A1, A2, A3, A4, A5 <u>E(a)(b)(c) and Sui Generis</u>)	700sqm
Office (Class B1 <u>E(g)(i)</u>)	1,000sqm
Health Facility (Class D1 <u>E(e)</u>)	1,500sqm
Nursery (Class D1 <u>E(f)</u>)	100sqm
Energy Centre (Sui Generis)	375sqm
Water Treatment Plant (<u>Sui Generis</u>)	450sqm

Schedule to the Town and Country Planning (Use Classes) Order 1987 (or their equivalent in subsequent enactments or re-enactments) and for no other purpose(s) whatsoever.

7.4. The current application proposes the following amendments to Condition 44:

*No more than a total of 8,000sqm floor space shall be provided for the mixed uses set out in Table 1. ~~and each~~ **No use shall not exceed the maximum Gross Internal Area for each specified use, unless an updated Transport Assessment demonstrates that an alternative mix of uses would not give rise to a material increase in traffic movements to and from the site has been submitted to and approved in writing by the Local Planning Authority.** These approved uses shall only be provided within the areas of the site annotated for 'Other Uses' and 'Social/ Community' on 'Land Use Parameter Plan 4' drawing number P22-3093_DE_013.*

Table 1

Land Use	Maximum GIA (sqm)
Hotel (Class C1)	2,600sqm <u>2,000sqm</u>
Veterinary Surgery (Class E(e))	2,000sqm <u>300sqm</u>
Pub/Community (Classes Sui Generis/F.2)	400sqm <u>500sqm</u>
Retail, Restaurants and Cafés, Financial and Professional Services, <u>Drinking Establishments and Hot Food Takeaways</u> (Classes E(a)(b)(c) and (Sui Generis))	700sqm <u>300sqm</u>
Office (Class E(g)(i))	1,000sqm <u>1,000sqm</u>
Health Facility (Class E(e))	1,500sqm <u>500sqm</u>
Nursery (Class E(f))	100sqm <u>500sqm</u>
<u>Discount Food Store (Class E(a))</u>	<u>2,500sqm</u>
Energy Centre (Sui Generis)	375sqm
Water Treatment Plant (Sui Generis)	450sqm



Schedule to the Town and Country Planning (Use Classes) Order 1987 (or their equivalent in subsequent enactments or re-enactments) and for no other purpose(s) whatsoever.

Condition 45

- 7.5. As a result of the aforementioned NMA (which has been presumed to be granted), Condition 45 states:

No individual Retail unit allowed for in Table 1 of condition 44 shall exceed 150m² in Gross Internal Area with the exception of a single unit up to a maximum of 300m² which shall be for uses within Use Class **A1 E** of the Town and Country Planning (Use Classes) Order 1987 (or their equivalent in subsequent enactments or re-enactments). If provided, the single retail unit over 150m² for uses falling within Use Class **A1 E** shall remain within that Use Class and it shall be used for no other Use whatsoever. Thereafter retail units shall not be amalgamated.

- 7.6. It is proposed that this condition is amended as follows:

No individual Retail unit allowed for in Table 1 of condition 44 shall exceed 150m² in Gross Internal Area with the exception of a single **Discount Food Store** unit **of** up to a maximum of **3002,500**m² which shall be for uses within Use Class E of the Town and Country Planning (Use Classes) Order 1987 (or their equivalent in subsequent enactments or re-enactments). If provided, the single retail unit over 150m² for uses falling within Use Class E shall remain within that Use Class and it shall be used for no other Use whatsoever. Thereafter retail units shall not be amalgamated.

8. Policy Framework

8.1. This Chapter identifies the key relevant planning matters contained within the Development Plan and other material planning considerations pertinent to the determination of this S73 planning application.

8.2. This Chapter deals with the following tiers of policy and guidance in turn:

- The Development Plan
- National Planning Policy Framework
- Planning Practice Guidance
- Emerging Development Plan Documents
- Supplementary Planning Documents

The Development Plan

8.3. Section 38(6) of the Planning and Compulsory Purchase Act requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. At the time of writing the Statutory Development Plan covering the application Site comprises:

- The Cherwell Local Plan 2011–2031 Part 1 (December 2016)
- Saved Policies of the Cherwell Local Plan 1996 (November 1996)

Cherwell Local Plan 2011–2031 Part 1

8.4. **Policy Bicester 1 (North–West Bicester Eco–Town)** allocates a 390ha area, of which the Site subject to the Outline consent is a part, for a new zero carbon mixed use development including 6,000 homes of which 30% will be affordable housing. The policy sets out the Council’s requirements for employment, housing and infrastructure needs across the allocation together with a number of ‘key site specific design and place shaping principles’. The following are considered to be the most relevant to the current proposals:

- Proposals should comply with Policy ESD15.
- High quality exemplary development and design standards including zero carbon development, Code Level 5 for dwellings, the use of low embodied carbon in construction materials and promoting the use of locally sourced materials.
- Enabling residents to easily reduce their carbon footprint and live low carbon lifestyles.
- A layout that enabled a high degree of integration and connectivity between new and existing communities, and maximises the potential for walkable neighbourhoods.
- New footways and cycleways that link with existing networks.

- A layout that prioritises non-car modes.
- Development that respects the landscape setting and that demonstrates enhancement, restoration or the creation of wildlife corridors to achieve a net gain in biodiversity.
- Consideration to maintaining visual separation with outlying settlements. Connections with the wider landscape should be reinforced and opportunities for recreational use of the open countryside identified. Development proposals to be accompanied and influenced by landscape/visual and heritage impact assessment.
- Careful consideration of open space and structural planting around the site to achieve an overall improvement in the landscape and visual impact of the site.
- Significant green infrastructure provision, and public open space to form a well connected network of green areas.
- Preservation and enhancement of habitats and species on site, particularly protected species and habitats, and creation and management of new habitats to achieve an overall net gain in biodiversity.
- Maximisation of the sustainable transport connectivity in and around the Site.
- Good accessibility to public transport services should be provided for, including the provision of a bus route through the Site with buses stopping at the local railway stations and at new bus stops on the Site.
- Provision of sustainable drainage in accordance with Policy ESD 7: Sustainable Drainage Systems (SuDS) taking account of the recommendations of the Council's Strategic Flood Risk Assessment.
- Demonstration of climate change mitigation and adaption measures.

8.5. This policy, along with the subsequent Outline planning approval, established the principle of the development which included the provision of new vehicular access routes and sets the core local policy context for assessing any subsequent proposals on the Site.

8.6. **Policy SLE 4 (Improved Transport and Connections)** states that development which is not suitable for the roads that serve the development and have a severe traffic impact will not be supported.

8.7. **Policy BSC 4 (Housing Mix)** states that new residential development will be expected to provide a mix of homes to meet current and expected future requirements in the interests of meeting housing needs and creating socially mixed and inclusive communities.

8.8. **Policy BSC 10 (Outdoor Space, Outdoor Sport and Recreation Provision)** sets out that the Council will encourage partnership working to ensure that sufficient quantity and quality of, and convenient access to open space, sport and recreation is secured. It will be ensured that new developments contribute to open space, sport and recreation provision commensurate to the need generated by the proposals. In determining the nature of new or improved provision the Council will be guided by the evidence base and consult with town and parish councils to ensure that provision meets local needs.

- 8.9. **Policy BSC 11 (Local Standards of Provision)** states that the amount, type and form of open space will be determined having regard to the nature and size of the development proposed and the community needs likely to be generated by it. Provision will be made in accordance with the standards set by the policy, although proposals for North West Bicester will be considered against the requirements of Policy Bicester 1.
- 8.10. **Policy ESD 1 (Mitigating and Adapting to Climate Change)** states that measures will be taken to mitigate the impact of development within the District on climate change. The policy outlines measures in new development to ensure that it is resilient to climate change impacts, which include minimising the risk of flooding and making use of sustainable drainage methods.
- 8.11. **Policy ESD 6 (Sustainable Flood Risk Management)** states that developments should be safe and remain operational and proposals should demonstrate that surface water will be managed effectively on site and that development will not increase flood risk elsewhere, including sewer flooding.
- 8.12. **Policy ESD 7 (Sustainable Drainage Systems)** requires all development to use sustainable drainage systems for the management of surface water run-off. In considering SuDS solutions, the need to protect ground water quality must be taken into account, especially where infiltration techniques are proposed. Where possible, SuDS should seek to reduce flood risk, reduce pollution and provide landscape and wildlife benefits.
- 8.13. **Policy ESD 10 (Protection and Enhancement of Biodiversity and the Natural Environment)** states that in considering proposals for development, a net gain in biodiversity will be sought by protecting, enhancing and extending existing resources, and by creating new resources. The protection of trees will be encouraged, with an aim to increase the number of trees in the District.
- 8.14. **Policy ESD 15 (Character of the Built and Historic Environment)** sets out that successful design is founded on an understanding and respect for an area's unique built, natural and cultural context. New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards. New development proposals should:
- Be designed to deliver high quality safe, attractive, durable and healthy places to live and work in. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions.
 - Support the efficient use of land and infrastructure, through appropriate land uses, mix and density.
 - Contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and respecting local topography and landscape features.
 - Conserve, sustain and enhance designated and non-designated heritage assets.
 - Reflect or reinterpret local distinctiveness including elements of construction, elevational detailing, windows and doors, building and surfacing materials, mass, scale and colour palette.

- Consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space.

8.15. The design of new development will need to be informed by an analysis of the context, together with an explanation and justification of the principles that have informed the design rationale.

8.16. **Policy ESD 17 (Green Infrastructure)** states that the District's green infrastructure network will be maintained and enhanced. All strategic development sites will be required to incorporate green infrastructure provision and proposals should include details for future management and maintenance.

Saved Policies of the Cherwell Local Plan 1996

8.17. Some Saved Policies of the Local Plan remain part of the Development Plan and consist of those saved by the Secretary of State in 2007 and not replaced by policies within the Cherwell Local Plan 2011-2031. Only one policy is considered to have relevance to the proposals:

8.18. **Policy C28 (Layout, design and external appearance of new development)** states that control will be exercised over all new development to ensure that standards of layout, design and external appearance including the choice of materials, are sympathetic to the character of the urban or rural context of that development.

National Planning Policy Framework (NPPF), December 2024

8.19. The NPPF sets out that planning law requires applications for planning permission to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The NPPF is a material consideration for all planning applications.

8.20. As the principle of development has been established both via Policy Bicester 1, the SPD and the subsequent Outline planning permission, the parameters of this adopted and approved framework are considered more important in assessing the proposals than the NPPF, which as a national document is less specific. Nonetheless, the following paragraphs are considered relevant to the proposals.

Achieving Sustainable Development

8.21. **Paragraph 7** emphasises that the purpose of the planning system is to contribute to the achievement of sustainable development.

8.22. **Paragraph 8** explains that there are three overarching objectives to sustainable development, namely economic, social and environmental objectives, and that these are independence and need to be pursued in mutually supporting ways.

The Presumption in favour of Sustainable Development

8.23. **Paragraph 11** set out the presumption in favour of sustainable development. As the application involves infrastructure within an allocated site with Outline planning permission, the principle of development has been established and the proposal accords with the sustainable development principles of the NPPF.

Decision Making

- 8.24. **Paragraph 39** states that local planning authorities should approach decisions on proposed development in a positive and creative way. They should work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision makers at every level should seek to approve applications for sustainable development where possible.

Promoting Healthy and Safe Communities

- 8.25. **Paragraph 96** sets out that planning decisions should aim to achieve healthy, inclusive and safe places which promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other, and are safe and accessible.

Promoting Sustainable Transport

- 8.26. **Paragraph 115** states that in assessing sites that may be allocated for development, it should be ensured that appropriate sustainable transport modes are prioritised, safe and suitable access to the site can be achieved for all users, the design of streets and parking areas reflect current national guidance, and any significant impacts on the transport network can effectively be mitigated.
- 8.27. **Paragraph 116** confirms 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.
- 8.28. In accordance with the NPPF, transport impacts on the wider network and the sustainability of the Site in transport terms were assessed when allocating land for development and approving the outline planning permission.

Achieving Well-Designed Places

- 8.29. **Paragraph 131** highlights 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.
- 8.30. **Paragraph 135** states that planning decision should ensure that developments will function well and add to the overall quality of the area, not just for the short term but for the lifetime of the development, are visually attractive, are sympathetic to local character and history, establish or maintain a strong sense of place, optimise to potential of the site to accommodate and sustain an appropriate amount and mix of development, and create places that a safe, inclusive and accessible, which promote health and wellbeing, with a high standard of amenity for existing and future users.

Conserving and enhancing the natural environment

- 8.31. **Paragraph 187** sets out how planning decisions should contribute to and enhance the natural and local environment, including by protecting sites of biodiversity value, and by minimising impacts on and providing net gains for biodiversity.

Planning Practice Guidance (PPG) – Flexible Options for Planning Permissions

- 8.32. Paragraph 013, Reference ID 17a-013-20230726 sets out that S73 applications can be used to make a material amendment to a previously consented scheme, by varying or removing conditions associated with a planning permission. The paragraph confirms that there is no statutory limit on the degree of change permissible under S73, as long as the change relates to the conditions and not to the operative part of the permission.

Emerging Development Plan Documents

- 8.33. The Council have begun consulting on Options for the Cherwell Local Plan 2040. This has been subject to three rounds of public consultation exercises at the time of writing. These were:

- Community Involvement Paper Consultation (31st July 2020 – 14th September 2020)
- Community Involvement Paper 2: Developing our Options Consultation (29th September 2021 – 10th November 2021)
- Cherwell Local Plan Review 2040 Consultation Draft (Regulation 18) (22nd September 2023 – 10th November 2023)

- 8.34. Despite the previous consultations, this is still at a relatively early stage likely several years away from adoption, and it is not yet at the point where it should be given notable weight in the consideration of planning applications.

- 8.35. However, it is noted that the following policy from the Local Plan Review 2040 is of particular relevance to the Application Site, given that it would replace the adopted allocation **Policy Bicester 1 (North-West Bicester Eco-Town)**.

- 8.36. Emerging **Core Policy 70** supports the delivery of 2,775 houses on the North West Bicester site (the Application Site) in the period 2020-2040 with a further 4,000 houses delivered from 2040 onwards.

Supplementary Planning Documents

North West Bicester SPD

- 8.37. The North West Bicester SPD was adopted in February 2016 and expands upon Policy Bicester 1 by providing further detail to the policy and a means of implementing the strategic allocation. The SPD includes a masterplan for the allocation, key development principles and requirements for the site, design and place shaping principles and the key requirements which should be met at the detailed planning application stage and beyond to achieve a comprehensive scheme and consistent approaches to quality and delivery.

- 8.38. **Development Principle 1 (Masterplanning and comprehensive development)** states that in order to ensure a comprehensive development, all planning applications will be required to be in accordance with the SPD masterplan.

- 8.39. **Development Requirement 2 (True zero carbon development)** states that development at North West Bicester must achieve zero carbon emissions as defined in the SPD> Energy



strategies should identify how the proposed development will achieve the zero carbon targets.

- 8.40. **Development Requirement 3 (Climate Change Adaption)** requires planning applications to incorporate best practice on tackling the impacts of climate change on the built and natural environment.
- 8.41. **Development Requirement 4 (Homes)** requires proposals to include details of 30% affordable housing of a type and tenure to meet local housing needs. All homes should achieve Building for Life 12, use energy efficient materials as part of the building fabric and address the issue of overheating.
- 8.42. **Development Principle 6 (Transport, Movement and Access)** assigns a higher priority to pedestrians and cyclists, setting out an approach to residential streets that recognises their role in creating places that work for all members of the community. Development should have a robust urban structure, with a network of well-designed, connected spaces and routes that prioritise the movement of pedestrians, cyclists and public transport. Streets will form a major element of the public realm which will 'stitch' the site together.
- 8.43. Development proposals must show an understanding of existing routes and provide a considered response that enhances existing access and connections and seeks to improve/remove barriers to movement on and off site. It is essential that accessibility of the overall development internally and externally is designed to a high standard with attractive, direct and overlooked routes. Such routes will be expected to be designed to an adoptable standard. It is crucial that proposed developments integrate fully with existing developments and communities in Bicester by making new connections, while improving existing ones.
- 8.44. **Development Requirement 6 (Transport, Movement and Access)** sets the key considerations for movement to be addressed in planning applications, which include generating activity and connectivity.
- 8.45. **Development Requirement 7 (Healthy lifestyles)** states that proposals should provide facilities which contribute to the wellbeing, enjoyment and health of people, and that planning applications should set out how the design of development will deliver healthy neighbourhoods.
- 8.46. **Development Requirement 9 (Green Infrastructure and landscape)** states that planning applications should demonstrate a range of types of green space, for example wetland areas and public space.
- 8.47. **Development Requirement 9a (Tree planting)** states that planning applications should allocated appropriate space for the root and crown development of trees.
- 8.48. **Development Requirement 9e (Biodiversity)** states that biodiversity mitigation and enhancement should be incorporated into development proposals to provide a net biodiversity gain.
- 8.49. **Development Requirement 11 (Flood Risk Management)** states that planning applications should demonstrate that the proposed development will not increase flood risk on or off the site.

9. Planning Assessment

- 9.1. This Chapter explains why the proposed amendments should be supported.
- 9.2. The below assessment only considers policy compliance insofar as this relates to the proposed amendments to the conditions. It must be noted that the majority of the consented scheme would remain unaltered as a result of the proposed amendments.

Principle of Development

- 9.3. The principle of a strategic-scale residential-led mixed use development on this Site has already been established by virtue of the granting of planning consent under application ref. **14/O2121/OUT**.
- 9.4. The principle of development is clearly supported by Policy Bicester 1 (North-West Bicester Eco-Town) of the Cherwell Local Plan 2011-2031 Part 1, which allocates the Site for a zero-carbon mixed-use development over a wider area spanning 390 hectares.
- 9.5. It is not considered that the form, scale, or nature of the amendments proposed in this S73 application would result in a development which is significantly different from that previously approved by Cherwell District Council and as discussed below, the impacts are considered acceptable.
- 9.6. The amendments that are sought would alter the consented commercial use mix within the development, in-line with the Government's recent changes to the Use Classes Order, in particular the introduction of a combined commercial, business, and service class - Class E. It should be noted that the change does not seek to introduce any new uses to the site; the changes only seek to improve the formulation of the commercial use mix.

Provision of an Appropriate Quantum and Mix of Commercial Uses

- 9.7. Policy Bicester 1 sets out the overarching vision for the 390ha strategic allocation site, of which the Application Site forms part of. The policy requires that, inter alia, the wider site provides at least 3,000 jobs within the plan period, creates mixed use local centres to include employment within various uses⁴, includes community facilities and provides appropriate infrastructure including schools and healthcare facilities.
- 9.8. The Applicant has, in recent months, sought professional advice from agents as to whether the current permission is likely to be attractive to the market. The advice received has prompted several concerns:
- A larger anchor retail store is expected to be the preferred approach from the market.
 - There is unlikely to be a demand for a large 2,000sqm veterinary surgery.

⁴ The policy references classes B1(a), A1, A2, A3, A4, A5, C1, D1 and D2, all of which except C1 have been superseded by the introduction of Classes E and F.2, or no longer fall into a class and are Sui Generis.

- 9.9. The proposed changes, which include the inclusion of a single large discount food store and the downscaling of the veterinary surgery allowance would allow the scheme to address the concerns arising from recent marketing feedback. The alterations to the conditions will allow the proposal to respond directly and dynamically to the market at the time of construction, increasing the appeal of the development and enabling more potential end users to come forward.
- 9.10. The current application seeks to address the above concerns without significant change to the nature of the consented scheme.
- 9.11. The proposed amendments would still allow all the same uses the original consent specified at Condition 44 to come forward on the Site.
- 9.12. The market indications are that these changes will increase the attractiveness of the commercial components to the market and thereby minimise the risk of the new commercial units being left vacant for any extended period of time and delaying the delivery of a genuinely mixed-use development.
- 9.13. The overall floorspace allowance for the non-residential elements of the scheme (a maximum of 8,000m²) would not be altered as a result of the proposed amendments. The Applicant is not seeking any change in this regard, only to the possible mix of uses, reflecting the recent changes to the Use Classes Order and market feedback.
- 9.14. The proposed amendment of Condition 45 would ensure that there is no conflict between condition 44 and 45, which would allow a single discount food store to come forward with an appropriate size restriction.
- 9.15. It should be noted that whilst the proposed changes alter the possible arrangement of commercial uses on the Site, this does not prejudice the local authority's ability to determine the acceptability of the final allocation of uses within a subsequent reserved matters submission. Should the LPA consider that a proposal at a future stage would result in unacceptable impacts or be incongruent with either Policy Bicester 1 or the outline consent, the authority would retain the ability to refuse permission on these grounds.
- 9.16. Overall, these changes would result in the provision of an appropriate quantum⁵ and mix of commercial uses within the Site, thereby contributing to an appropriate quantum and mix of uses within the wider allocation, ensuring accordance with Policy Bicester 1.
- 9.17. The Socio-Economics Chapter of the EIA Addendum considers the likely socio-economic effects of the proposed development. The Chapter confirms that no significant adverse effects are identified whilst significant beneficial effects are identified across the long-term.

Visual Impacts

- 9.18. Policy ESD 15 requires that development complements and enhances the character of its context through sensitive siting, layout and high quality design. Development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live

⁵ Again, noting that the maximum quantum of the specified non-residential uses would not change from that previously consented.

and work in. The design of new development should also be informed by an analysis of the context, together with an explanation and justification of the principles that have informed the design rationale.

- 9.19. Policy Bicester 1 states that proposals on the allocation site should provide high quality exemplary development and design standards.
- 9.20. Whilst the proposed changes may result in an alternate mix of commercial uses within the Site, this is unlikely to have any tangible impact on the overall visual impact of the commercial components of the development.
- 9.21. The proposed alterations to the two conditions are unlikely to undermine the overall visual impact of the scheme by virtue of the fact that the overall amount of commercial space would not change.
- 9.22. Once again, the LPA would retain the ability to assess the acceptability of this matter through a subsequent reserved matters application.

Noise and Amenity

- 9.23. Policy ESD 15 also requires that development proposals consider the amenity of both existing and future development, such as matters of noise, privacy, outlook, natural lighting, ventilation and indoor and outdoor space.
- 9.24. It should be noted that the proposed alterations do not seek to introduce the ability to create a 'new' set of uses (i.e. within a different Use Class) within the commercial areas of the Site. As such, no 'new' noise or other factors that could amount to disturbances would result from the alterations to the conditions as proposed.
- 9.25. Given the clustering of commercial units within the areas marked 'social/community' and 'other uses' on the 'Land Use - Parameter Plan 4', commercial uses with potential to generate noise or other forms of disturbance are for the most-part unlikely to be located in close proximity to residential dwellings. Furthermore, the acceptability of any subsequent reserved matters submission would remain to be determined by the LPA.

Flood Risk

- 9.26. Policy ESD 6 (Sustainable Flood Risk Management) states that developments should be safe and remain operational and proposals should demonstrate that surface water will be managed effectively on site and that development will not increase flood risk elsewhere, including sewer flooding.
- 9.27. The proposed changes would not result in the introduction of any 'new' uses within the commercial areas of the Site, nor would the changes be likely to increase the proliferation of uses which are particularly vulnerable to flooding. The proposed amendments are therefore considered to result in no material change to the probability of flood risk at the Site.

Highways/Access

- 9.28. Policy SLE 4 (Improved Transport and Connections) states that development which is not suitable for the roads that serve the development and have a severe traffic impact will not be supported.



- 9.29. Paragraph 116 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 9.30. The consented development is unlikely to be significantly impacted by the proposed alterations from a transportation perspective. The frequency, timing and volume of vehicular movements and the specific requirements for parking may change as a result of a different mix of commercial uses, but this is a matter that will require the LPA's consent in any case. There is no good reason to suggest that the highway impacts of the development would be adversely impacted by the proposed alterations.
- 9.31. The Transport Chapter of the EIA Addendum similarly notes that the change in development flows is -23 trips in the AM peak and -20 trips in the PM peak and therefore lower than the originally assessed traffic generation of the Site. The Transport Chapter therefore concludes that the proposed amendments to the conditions would not change the conclusion of the significance of effect on severance and fear and intimidation, pedestrian amenity, pedestrian delay and driver delay. The development would still generate effects which are not significant.

Ecology

- 9.32. Policy ESD 10 and Bicester 1 both encourage the provision of a net gain in biodiversity within new developments alongside the sensitive preservation and enhancement of habitats and species on site, particularly protected species and habitats, and the creation and management of new habitats.
- 9.33. There is no reason to suggest that the proposed amendments to the approved scheme would result in any tangibly different impact on ecological assets, over and above the already consented development.

Benefits of the Development

- 9.34. It is considered that the proposed amendments to conditions 44 and 45 would not result in any significant change to the benefits of the development, as previously promoted by Pegasus Group and agreed on by the LPA within the Officer's Report and the Planning Committee's decision to approve the application.
- 9.35. To summarise, the headline benefits include:
- **New Housing:** The development would significantly boost the number of housing units in the area, with a focus on affordable housing options.
 - **Green Infrastructure Network:** The proposal includes the establishment of green infrastructure corridors, both formal and informal recreation facilities, and measures to enhance local habitats.
 - **Pedestrian-Friendly Streets:** The design emphasizes a well-organized street network that minimises conflicts between vehicles, pedestrians, and cyclists, encouraging active and healthy lifestyles.
 - **Community Facilities:** To foster inclusive communities and reduce the need for travel, various commercial, social, and community facilities will be provided on-site.

9.36. In addition to the benefits listed above, the changes proposed within the current application would improve the appropriateness of the commercial offering within the Site based on market feedback. This would have the effect of making the commercial offering more attractive to the market, enhancing deliverability, and reducing the likelihood that any of the commercial units would remain vacant for an extended period.

Planning Balance

9.37. The above planning assessment has demonstrated that:

- The principle of the Proposed Development has been previously deemed to be acceptable, as confirmed by the granting of planning permission for the original scheme and the subsequent S96a and Reserved Matters applications.
- The proposed amendments are still considered acceptable in principle, given that it the development is supported by Policy Bicester 1 (North–West Bicester Eco–Town) of the adopted Cherwell Local Plan 2011–2031 Part 1 and the emerging Core Policy 70.
- The proposed amendments will not give rise to any unacceptable impacts, as the Proposed Development would not be substantially different to the design and layout previously approved. Accordingly, there are no additional impacts which outweigh the benefits of the Proposed Development or which are contrary to planning policy.

9.38. Taken as a whole, compliance with the Development Plan and other planning policy requirements, the significant benefits associated with the Proposed Development and the particularly limited impacts, it is clear that this development is, on balance, acceptable in planning terms.

9.39. This application represents a sustainable development as defined by the NPPF (December 2024) and is a scheme which complies with the Development Plan. As the NPPF at paragraph 11 directs, in such circumstances, the application should be approved without delay.

Other Matters

9.40. Details of the proposed formulation of the mixed use area of the Site are unknown at the current time, and it will be for CALA Homes' chosen development partner to provide appropriate information at the Reserved Matters stage to allow the LPA to determine that application, and to seek any updates to baseline documents at the same time.

9.41. Should the LPA consider this application acceptable, the Applicant would welcome discussions as to how previously approved reserved matters submissions would be noted within decision documentation, to ensure that the new consent remains linked to the reserved matter consents. The Applicant would suggest that reference within an appropriately worded condition (or conditions) would be sufficient.



10. Conclusions

- 10.1. This Planning Statement has been prepared by Pegasus Group on behalf of CALA Homes (Cotswolds) Ltd (“the Applicant”) in support of an application made pursuant to Section 73 of the Town and Country Planning Act 1990.
- 10.2. This S73 application seeks to make amendments to the approved development (LPA ref.14/02121/OUT), at Proposed Himley Village North West Bicester, Middleton Stoney Road, Bicester, Oxfordshire.
- 10.3. This S73 application seeks to amend the following conditions attached to the planning consent (14/02121/OUT):
- Condition 44;
 - Condition 45.
- 10.4. The proposed alterations would alter the commercial offering on the Site in accordance with the updated Use Classes Order and in response to feedback that the restrictions placed upon the consented scheme are unappealing to the market. The alterations which are sought do not seek to alter the majority of consented uses (with the exceptions of provision for a single large discount food store as opposed to a series of smaller retail units), and would allow a more appropriate mix of the previously approved uses to come forward, responding to the needs of the market and thus enhancing deliverability.
- 10.5. This Statement demonstrates that, considering the relevant matters at hand, on balance the amended proposal falls well within the scope of acceptability:
- Compliance with the Development Plan and national planning policy;
 - The benefits associated with the alterations; and
 - The lack of adverse impacts associated with the proposed alterations.
- 10.6. Accordingly, the amended proposal represents sustainable development and as such, it is respectfully requested that this application is approved without delay.

Town & Country Planning Act 1990 (as amended)
Planning and Compulsory Purchase Act 2004

Cirencester

33 Sheep Street, Cirencester,
Gloucestershire, GL7 1RQ
T 01285 641717
E Cirencester@pegasusgroup.co.uk
Offices throughout the UK

Expertly Done.

DESIGN | ECONOMICS | ENVIRONMENT | HERITAGE | LAND & PROPERTY | PLANNING | TRANSPORT & INFRASTRUCTURE

Pegasus Group is a trading name of Pegasus Planning Group Limited (07277000) registered in England and Wales.

Registered office: 33 Sheep Street, Cirencester, GL7 1RQ
We are ISO certified 9001, 14001, 45001



[Pegasus_Group](#)



[pegasusgroup](#)



[Pegasus_Group](#)

PEGASUSGROUP.CO.UK