



DISTRICT COUNCIL
NORTH OXFORDSHIRE

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

Name and Address of Agent/Applicant:

Diamond Estates and Mr C. Adkins
c/o Tuckley Chester Design
Mr Bernard Chester
1 Brackley Road
Towcester
NN12 6DH

Date Registered: 4th September 2018

Proposal: Demolition of number 47 High Town Road, Banbury and the erection of 9 dwellings, new access and ancillary works

Location: Land To The Rear Of 45 To 53, Hightown Road, Banbury

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

Jim Newton

**Assistant Director for
Planning Policy and Development**

Date of Decision: 1st November 2018

Checked by: NS (Officer initials)

SCHEDULE OF CONDITIONS

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

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

- 2 Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application form and the following plans and documents: Design and Access Statement, Arboriculturalists Report, Flood Risk and Run Off Assessment, Drainage Statement, Ecological Survey, Geo-Environmental Ground Investigation Report, Site Location Plan and drawing Nos: 2694/PL rev A, S2026/01, 1614-101 rev D, 1614-102 rev C, 1614-200 rev B, 2694/P1/E rev A, 2694/P1/P rev A, 2694/P2/E rev A, 2694/P2/P rev B, 2694/P3/E rev B, 2694/P3/P, 2694/P4 rev A, 2694/P5 rev A, 2694/P6/E rev A, 2694/P6/P rev A, 2694/P7/E rev A, 2694/P7/P rev B, 2694/P8/E rev B, 2694/P8/P rev B, 2694/P9/E rev A, 2694/P9/P rev C, 2694/GAR.

Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

- 3 The development hereby approved shall be carried out in accordance with the recommendations set out in 6.2, 6.4 and 6.5 of the Ecological Survey carried out by Philip Irving dated March 2018.

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

- 4 Prior to the commencement of the development above slab level, including any demolition, and any works of site clearance, a method statement for enhancing the biodiversity on site both within landscaped areas and within buildings, such that an overall net gain for biodiversity is achieved shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.

Reason - To conserve and enhance biodiversity and prevent the spread of non-native species in accordance with Government guidance contained within the National Planning Policy Framework.

- 5 Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance, a Construction Environmental Management Plan (CEMP), which shall include details of the measures to be taken to ensure that construction works do not adversely affect biodiversity, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved CEMP.

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.

- 6 Prior to the commencement of the development hereby approved a plan showing the position, crown spread and root protection area of every retained tree on site (as shown on drawing No. 2694/PL rev A) and on neighbouring or nearby ground to the site in relation to the approved development, along with the details and positions of the tree protection barriers, shall be submitted to and approved in writing by the Local Planning Authority. The tree protection barriers are to be erected prior to the commencement of the development and remain in place until the completion of the development unless otherwise agreed in writing by the local planning authority.

Reason - To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

- 7 a) No retained tree shall be cut down, uprooted, damaged or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. All tree works shall be carried out in accordance with BS3998: Recommendations for Tree Works.
- b) If any retained tree is cut down, uprooted, destroyed or dies, another tree shall be planted in the same place in the next planting season following the removal of that tree, full details of which shall be firstly submitted to and approved in writing by the Local Planning Authority.

In this condition a "retained tree" is an existing tree which shall be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) shall have effect until the expiration of five years from the date of the completion of the development.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

- 8 That the existing hedgerow/trees along the eastern and southern boundaries of the site shall be retained and properly maintained and that any hedgerow/tree which may die within five years from the completion of the development shall be replaced and thereafter be properly maintained in accordance with this condition.

Reason - In the interests of the visual amenities of the area, to provide an effective screen to the proposed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

- 9 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 landscape and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

- 10 That 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 that any trees and 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 - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996.

- 11 Prior to the commencement of the development above slab level, sample panels of the natural ironstone, brick and render (minimum 1m² in size each) to be used in the construction of the walls of the development shall be constructed on site and shall be inspected and approved in writing by the Local Planning Authority. The external walls of the development shall be constructed in strict accordance with the approved sample panels and shall be retained as such thereafter.

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

- 12 Prior to the commencement of the development above slab level, samples of the tiles and/or slates to be used in the construction of the roofs of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the samples so approved and shall be retained as such thereafter.

Reason - To ensure the satisfactory appearance of the completed development 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.

- 13 Prior to the commencement of the development above slab level, and notwithstanding the details shown on the approved plans, revised and full design details of the doors and windows, at a scale of 1:20 including a cross section, cill, lintel and recess detail and colour/finish, shall be submitted to and approved in writing by the Local Planning Authority. The doors and windows and their surrounds shall be installed within the buildings in accordance with the approved details and shall be retained as such thereafter.

Reason - To ensure the satisfactory appearance of the completed development 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.

- 14 Prior to the commencement of the development hereby approved, full details of the means of access between the land and the highway, including, position, layout, construction, drainage and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the means of access shall be constructed and retained in accordance with the approved details.

Reason - In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework.

- 15 The vision splays shall not be obstructed by any object, structure, planting or other material of a height exceeding 0.6m measured from the carriageway level.

Reason - In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework

- 16 Prior to the first occupation of any of the dwellings hereby approved, all of the estate roads and footpaths (except for the final surfacing thereof) shall be laid out, constructed, lit and drained in accordance with Oxfordshire County Council's Conditions and Specifications for the Construction of Roads and its subsequent amendments.

Reason - In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Government guidance contained within the National Planning Policy Framework.

- 17 No development shall take place, including any works of demolition, until a construction traffic management plan has been submitted to, and approved in writing by, the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for: i.) parking of vehicles of site operatives and visitors
ii.) routes for construction traffic from West Bar Street
iii.) hours of operation
iv.) method of prevention of mud being carried onto the highway
v.) pedestrian and cyclist protection
vi.) any proposed temporary traffic restrictions
vii.) arrangements for turning vehicles.

Reason - To protect the amenities of the local residents and to avoid pollution and to comply with saved Policy ENV1 of the Cherwell Local Plan 1996.

- 18 Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, 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 completed. The scheme shall also include:

- o Discharge Rates
- o Discharge Volumes
- o Maintenance and management of SUDS features
- o Sizing of features - attenuation volume
- o Infiltration in accordance with BRE365
- o Detailed drainage layout with pipe numbers
- o SUDS - (Permeable Paving)
- o Network drainage calculations
- o Phasing
- o Flood routes in exceedance

Reason - To ensure satisfactory drainage of the site in the interests of public health, to avoid flooding of adjacent land and property and to comply with Government guidance contained within the National Planning Policy Framework.

- 19 Prior to the commencement of the development hereby approved, full specification details (including construction, layout, surfacing and drainage) of the turning area and 36 parking spaces within the curtilage of the site, arranged so that motor vehicles may enter, turn round and leave in a forward direction and vehicles may park off the highway, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Thereafter, and prior to the first occupation of the development, the turning area and car parking spaces shall be constructed in accordance with the approved details and shall be retained for the parking and manoeuvring of vehicles at all times thereafter.

Reason - In the interests of highway safety, to ensure the provision of off-street car parking and to comply with Government guidance contained within the National Planning Policy Framework.

- 20 Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details 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.

- 21 Prior to the first occupation of the development hereby approved, full details of the enclosures along all boundaries and within the site shall be submitted to and approved in writing by the Local Planning Authority. The approved means of enclosure, in respect of those dwellings which they are intended to screen, shall be erected in accordance with the approved details prior to the first occupation of those dwellings and shall be retained as such thereafter.

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

- 22 Prior to the commencement of the development, a Construction Environment Management Plan (CEMP), which shall include details of the measures to be taken to ensure construction works do not adversely affect residential properties on, adjacent to or surrounding the site together with 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. This should pay special attention to noise and vibration from the proposed piling activities and the potential for nuisance for dust.

Reason - To ensure the environment is protected during construction in accordance with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

- 23 If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

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

- 24 Prior to the construction of the development above slab level, provision of ducting to allow for future installation of EV charging infrastructure will be required, in order to make resident parking places EV ready for future demand. The details and location of such provision should take into consideration the availability of electrical supply and should therefore be designed making reference to information held by the local distribution network operator. Subsequently, these details and designs should be submitted to and approved in writing by the Local Planning Authority. Such provision shall be formed, and laid out in accordance with these details before usage of the parking spaces commences and shall remain in place thereafter.

Reason - To maximise opportunities for sustainable transport in accordance with Government guidance contained within the National Planning Policy Framework.

- 25 Notwithstanding the provisions of Classes A to D (inc.) of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and its subsequent amendments, the approved dwelling(s) shall not be extended or enlarged without the grant of further specific planning permission from the Local Planning Authority.

Reason - To enable the Local Planning Authority to retain planning control over the development of this site in order to safeguard the amenities of the occupants of the adjoining dwellings in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

PLANNING NOTES

- 1 **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.

- 2 Consent has been granted subject to conditions. It is the developer's responsibility to ensure that they have read and understood the requirements of the conditions, and that they comply with the conditions when carrying out the development. If you are unclear about what is required, please contact the case officer for further advice.

In some cases conditions require further details to be submitted and approved by the Local Planning Authority. You will need to make a formal application to the Council for approval of these details, and you need to allow up to 8 weeks (following receipt of a valid application) for the Council to make a decision on the acceptability of the details. This is particularly important where a condition requires further details to be approved before any work commences as any work carried out before those details have been approved would be unauthorized and at risk of planning enforcement action.

The conditions application fee is £116. The fee is payable each time a conditions application is made. You can include multiple conditions in one application, and this can be more cost and time effective than submitting details for each condition separately.

Guidance on making an application is available online on the Council's website by going to <http://www.cherwell.gov.uk/index.cfm?articleid=8983>

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 provides a detailed assessment of the merits of the application when considered against current planning policy and guidance, including consideration of the issues raised by the comments received from consultees and members of the public. This report is available to view online at: <http://www.cherwell.gov.uk/viewplanningapp>.

NOTICE OF DECISION

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(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. You are therefore advised to contact the District Council's Building Control Manager before starting work on site.**
- 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 0300 003 0200, or E-mail at building.control@cherwellandsouthnorthants.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.