

Application number:	22/02446/CT3		
Decision due by	30th December 2022		
Extension of time	9th June 2023		
Proposal	Removal of existing fencing and formation of footpath and cycle path and associated landscaping works (additional information: Updated Arboricultural Impact Assessment and Biodiversity Net Gain Design Stage Report). (Amended Description)		
Site address	Donnington Recreation Ground, Freelands Road, Oxford, Oxfordshire – see Appendix 1 for site plan		
Ward	Rose Hill And Iffley Ward		
Case officer	Chloe Jacobs		
Agent:	Ms Chloe Duggan	Applicant:	Oxford Direct Services
Reason at Committee	Called in by Councillors Turner, Pressel, Railton, Munkonge, Chapman, Fry, Coyne and Brown as this is a council project and there are local concerns in regards to the loss of trees and impact on biodiversity.		

1. RECOMMENDATION

1.1. Oxford City Planning Committee is recommended to:

1.1.1. **approve the application** for the reasons given in the report and subject to the required planning conditions set out in section 12 of this report and grant planning permission and subject to:

- the satisfactory completion of a legal Obligation under section.106 of the Town and Country Planning Act 1990 and other enabling powers to secure the planning obligations set out in the recommended heads of terms which are set out in this report; and

delegate authority to the Head of Planning Services to:

- finalise the recommended conditions as set out in this report including such refinements, amendments, additions and/or deletions as the Head of Planning Services considers reasonably necessary; and
- finalise the recommended legal Obligation under section 106 of the Town and Country Planning Act 1990 and other enabling powers as set out in this report, including refining, adding to, amending and/or deleting the

obligations detailed in the heads of terms set out in this report (including to dovetail with and where appropriate, reinforce the final conditions and informatives to be attached to the planning permission) as the Head of Planning Services considers reasonably necessary; and

- complete the section 106 legal Obligation referred to above and issue the planning permission.

2. EXECUTIVE SUMMARY

2.1. This report considers the formation of a footpath and cycle path and associated landscaping works at Donnington Recreation Ground. The report considers the principle of development, impact on design, trees, ecology and biodiversity and the risk of flooding on the site.

2.2. The key matters for assessment set out in this report include the following:

- Principle of development
- Design
- Neighbouring impact
- Highways and pedestrian safety
- Trees
- Biodiversity
- Flooding and drainage

2.3. For the reasons outlined in the report, it is concluded that the proposal has an acceptable impact with regard to these considerations and that permission should be granted subject to conditions and a legal obligation to secure the measures listed below.

3. S106 TCPA 1990 LEGAL OBLIGATION

3.1. This application is subject to a legal obligation to secure the biodiversity net gain through a combination of on-site planting and off-site planting at Greyfriars School as set out in the report.

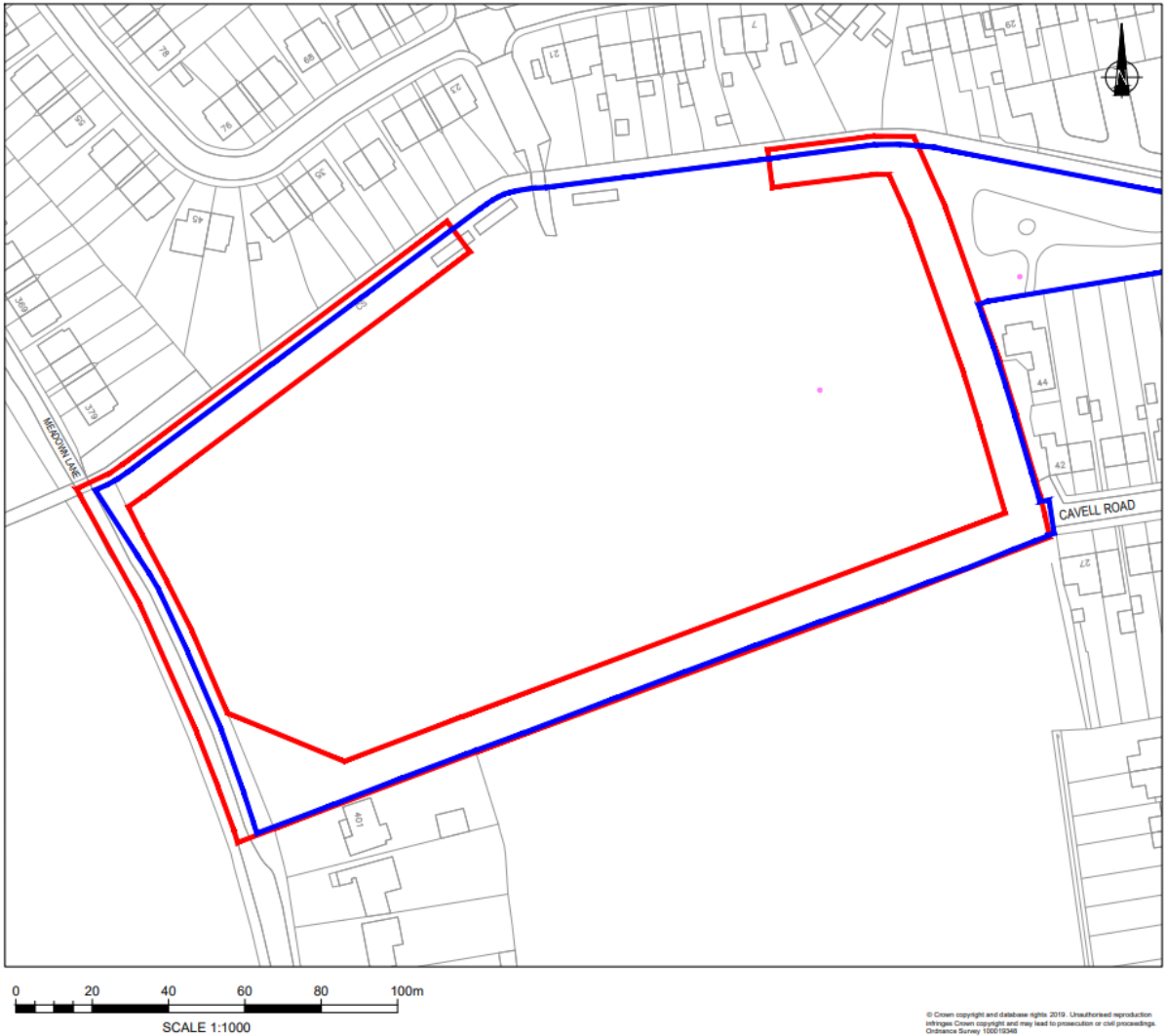
4. COMMUNITY INFRASTRUCTURE LEVY (CIL)

4.1. The proposal is not liable for CIL.

5. SITE AND SURROUNDINGS

5.1. The site relates to Donnington recreation ground which is an area of protected open space owned by Oxford City Council. The application site is bound by mature trees around the majority of the site.

- 5.2. The predominant surrounding land use is residential, with Freelands Road running along the north of the site, Cavell Road and Arnold Road to the east and Meadow Lane to the west.
- 5.3. The application site is bounded on the north and east sides by residential properties, with Boundary Brook forming the northern site boundary. To the south of the site is Iffley Academy's playing fields and the last house of the southern portion of Meadow Lane. To the west lies scrubland to the River Thames.
- 5.4. The site lies partially within flood zones 2 and 3 (medium to highest risk of flooding). To the south western corner, the application site falls within flood zone 3.
- 5.5. See block plan below:



6. PROPOSAL

- 6.1. At present, there is an informal 'desire' line which runs from the Cavell Road entrance to the recreation ground in a north westerly direction towards the existing gate on Meadow Lane.

- 6.2. The application proposes the formation of a footpath and cycle path and associated landscaping works.
- 6.3. The proposed path would comprise a 3m wide path which would run along the southern boundary of Donnington recreation ground, connecting Meadow Lane and Cavell Road.
- 6.4. The proposed path would be surfaced in a Flexipave surface course in a Stone Age Bronze colour. For elements of the path within root protection areas, a porous 3D cellular confinement system would be used.
- 6.5. The existing fencing at the Cavell Road entrance would be removed to provide a wider access for pedestrians and cyclists. A removable bollard would be placed at the Cavell Road entrance to allow for access by emergency services.
- 6.6. The existing gate at Meadow Lane is also proposed to be removed and a new kissing gate would be installed along with associated fencing wither side of the new gate.
- 6.7. Where the proposed cycle and footpath meets Meadow Lane, the proposal would include the installation of 3no. timber, staggered bollards.
- 6.8. Luminescent markers will edge either side of the proposed path.
- 6.9. In order to facilitate the new path, twelve trees and one group of trees have been identified for removal. The proposal would seek landscaping works by means of the planting of 7 replacement trees on the boundaries of the playing field, and enhancements to the existing grass with species enriched wildflower planting on the boundaries. It is also proposed that there would be the provision of off-site planting of additional trees at Greyfriars School.
- 6.10. During the course of this application, amended plans and information have been submitted. The amended plans have included the location of appropriate flood signage and the provision of staggered bollards. Additional and amended information has also been submitted, this includes the submission of an updated Arboricultural Impact Assessment and Biodiversity Net Gain Design Stage Report and associated Biodiversity Metric.

7. RELEVANT PLANNING HISTORY

- 7.1. The table below sets out the relevant planning history for the application site:

05/01133/CT3 - Erection of single storey changing rooms with plant and storage facility. Car park for 47 cars.. APPROVED 5th October 2005.
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08/01326/CT3 - Erection of community noticeboard.. WITHDRAWN 1st July 2008.

08/01676/CT3 - Proposed community notice board. APPROVED 24th September

8. RELEVANT PLANNING POLICY

8.1. The following policies are relevant to the application:

Topic	National Planning Policy Framework	Local Plan	Other planning documents	Neighbourhood Plans:
Design	117-123, 124-132	DH1 - High quality design and placemaking RE1 - Sustainable design and construction RE2 - Efficient use of Land		
Natural environment	91-101	RE3 - Flood risk management RE4 - Sustainable and foul drainage, surface G1 - Protection of Green/Blue Infrastructure G2 - Protection of biodiversity geo-diversity G5 - Existing open space, indoor and outdoor G7 - Protection of existing Green Infrastructure G8 - New and enhanced Green and Blue Infrastructure		
Social and community	102-111			
Transport	117-123	M1 - Prioritising walking, cycling and public transport	Parking Standards SPD	

Environmental	117-121, 148-165, 170-183	RE7 - Managing the impact of development RE8 - Noise and vibration RE9 - Land Quality	Energy Statement TAN	
Miscellaneous	7-12	S1 - Sustainable development RE5 - Health, wellbeing, and Health Impact Assessment	External Wall Insulation TAN,	

9. CONSULTATION RESPONSES

9.1. Site notices were displayed around the application site on 24th November 2022 and an advertisement was published in The Oxford Times newspaper on 25th May 2023.

Statutory and non-statutory consultees

Oxfordshire County Council Highways (on amended plans)

9.2. The proposed plans have been amended to include further speed reduction methods in the form of staggered timber bollards at the Meadow Lane access. The introduction of the proposed bollards as well as the signage at the Cavell Road access has addressed our previous safety concerns. Furthermore, the use of luminescent discs along the shared path will ensure that suitable visibility is provided.

9.3. The width of the proposed footway/cycleway meets the recommended width stated in LTN 1/20 and the Oxfordshire cycle design standards and is considered to be acceptable.

9.4. The proposals are unlikely to have a detrimental impact on the local highway network in traffic and safety terms. Oxfordshire County Council do not object to the granting of planning permission.

Public representations

9.5. 58 letters of representation have been received.

9.6. In objection to the original submission of the proposed scheme 25 people commented on this application from addresses in 402 (2 letters), 405 (10 letters), 413 (2 letters), 425 (3 letters), and 431 (2 letters) Meadow Lane, 21 Freelands Road, Tree Lane, 13 and 27 Abberbury Road, 52 and 58 Fairacres Road, Cordey Green, 22 Arnold Road, 21B, 50 and 58 Church Way, 20 Mill Lane (2 letters), 30 Swinburne Road, 1 Maywood Road, 21 Hudson Road, 38 Stratford Street, OX4 4ED and from 3 unknown addresses.

9.7. In summary, the main points of objection (25 residents) were:

Ecology

- The proposal would have an adverse impact on biodiversity
- The proposal does not meet both local and national guidelines of providing 10% Biodiversity Net Gain
- The scheme is not compliant with national or local planning policies in regard to biodiversity.
- The scheme does not follow the mitigation hierarchy.
- There is no justification for why less environmentally damaging alternatives are not feasible/been considered.
- The assessment of the grassland condition is incorrect.
- Most of the survey samples are outside of the red line site boundary.
- Flawed methodology used for collecting data.

Trees

- The amount of trees to be removed is unjustified
- Removal of trees would impact on the visual amenity of Meadow Lane
- Removal of the trees would impact local wildlife and biodiversity
- Removal of trees and impact on wider climate considerations including air quality and urban heat affect.
- General dislike to the removal of the trees along Meadow Lane
- Inaccuracies with arboricultural report and landscape plans
- Not clear as to the amount of trees to be removed

Drainage and flooding

- Concern that the development would increase flood risk.

Highways

- Concerns regarding visibility on Meadow Lane
- Lack of safety calming measures

Other matters

- The development should be re-routed along the north and eastern boundaries

- The development would create a new desire line across the field
- Inaccuracies with plans and arboricultural report and the number of trees to be removed
- Proposal goes against the pre-application advice

9.8. In support of the scheme, 16 people commented on this application from addresses in 12 (2 letters) and 40 Cavell Road, 58 Magdalen Road, 43 Argle Street (2 letters), 140 Campbell Road, 28 Stratford Street, 14 Church Way, 30 Cornwallis Road, 5 Kenilworth Avenue, 23 Henley Avenue, 18 Hampden Road, 39 Rymers Lane, 26 Fletcher Road and 1 Eastchurch.

9.9. In summary, the main points of support were:

- Provides a good car-free link
- Improve the condition of the football pitches
- Improves and encourages healthy modes of travel
- Supports local communities and groups
- Health benefits associated with promoting cycling
- The proposal would have a biodiversity net gain
- The planting of additional trees would mitigate the harm caused by the removal of the trees along Meadow Lane

9.10. Following receipt of revised Arboricultural Impact Assessment, Updated Biodiversity Net Gain Stage Report (REV C) and Metric and amended plans to show location of staggered bollards, the application was re-advertised for an additional 21 days. Following this re-consultation, 5 letters of representation from Nos. 50 and 58 Church Way, All Souls College and Nos. 402 and 431 Meadow Lane were received.

9.11. These letters of representation object to the proposed scheme for the following, summarised reasons:

- The proposal seeks to fell a large number of mature trees which is part of the character of Meadow Lane
- The removal of the trees has not been justified and is unnecessary
- The proposed access would compromise the safety of pedestrians, cyclists, dogs, horses etc who use Meadow Lane.
- The proposal would not resolve the issue with the existing desire line cutting across the playing field.

- The proposed path should run along the western side of the field.
- The resubmission does not adequately address local concerns in regards to loss of trees and biodiversity.

Officer response

9.12. Where the above comments relate to material planning considerations including the impact of trees, visual amenity, impact on residential amenity the impact on biodiversity and ecology, and highways safety concerns, these will be addressed in the relevant sections of the committee report below.

9.13. Officers note the comments made with regard to the inaccuracies contained within the supporting information, primarily in the Arboricultural Report and the Biodiversity Metric. The Council have worked proactively with the agent and the applicant to address and resolve these issues. As a result, an amended Arboricultural Impact Assessment and an amended Biodiversity Net Gain Design Stage Report and associated Biodiversity Metric has been submitted and the application readvertised on that basis.

9.14. Officers note the concerns regarding the consultation process prior to the submission of the application and that the application proposal goes against the Council's advice as detailed in the pre-application submission. It is noted that the applicant has submitted the pre-application advice from the Council as part of their submission whereby officers state their objections to the scheme and offer an alternative solution whereby the path could run along the eastern and northern boundaries to the existing gate/access on Meadow Lane. However, what is not detailed in the applicant's submission is that further discussions were held between the Council and the applicant following the pre-application written advice whereby officers had agreed that the proposal to run the path along the southern boundary was considered acceptable.

10. PLANNING MATERIAL CONSIDERATIONS

10.1. Officers consider the determining issues to be:

- Principle of development
- Design
- Impact on neighbouring amenity
- Highways and pedestrian safety
- Impact on trees.
- Ecology and biodiversity
- Flooding and Drainage

a. Principle of development

- 10.2. Policy S1 of the Oxford Local Plan 2036 (2020) sets out a presumption in favour of development in accordance with the presumption set out in the NPPF (2021). The policy states when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development including approving planning applications that accord with the Local Plan without delay.
- 10.3. Policy M1 of the Local Plan aims to promote cycling in the city and ensure an accessible environment for cyclists, with the Council expecting development to provide for connected, high quality, convenient, and safe (segregated where possible) cycle routes that are permeable. The principle of enhancing connectivity for pedestrians and cyclists as sustainable modes of transport is supported in accordance with policy M1 and the Local Plan as a whole.
- 10.4. Policy G5 of the Local Plan sets out the City Council's stance on protecting open space and sports and recreational land. Existing provision should not be lost unless under certain circumstances. The proposed development will result in a minimal loss of recreational land on the southern boundary however additional land which is currently the existing informal path which runs through the centre of the site and restricts the use of the pitches, will be unlocked and provided for their intended recreational use. Overall, the provision is considered to be retained in compliance with Policy G5.
- 10.5. The proposed path will provide a safe, high-quality surface for both pedestrians and cyclists and ensure greater accessibility for disability users from Meadow Lane to Cavell Road. The principle of enhancing connectivity for pedestrians and cyclists as sustainable modes of transport is therefore supported in accordance with policy M1 and the Local Plan as a whole, subject to detailed material considerations as outlined below.

b. Design

- 10.6. Policy DH1 of the Oxford Local Plan 2036 requires development to be of high quality design that creates or enhances local distinctiveness. Proposals must meet the key design objectives and principles for delivering high quality development as set out in Appendix 6.1 of the Plan.
- 10.7. The proposed path would be 3m wide and would connect Meadow Lane and Cavell Road. The proposed path would be a flexi pave surface course in a Stone Age bronze colour. The proposed path would be of a suitable design and would be in keeping with the character and appearance of the recreation ground.
- 10.8. The proposal also includes a new entrance gateway to the north west of the site. It is proposed to replace the existing entrance gate with a new kissing gate with associated fencing either side of the new entrance. The kissing gate would be 1.27m tall and would be of a timber construction. The proposed gate and associated fencing are considered to be of an appropriate design and construction which would not detract from the character and appearance of the recreation ground or surrounding area.

- 10.9. The proposed path would be edged with luminescent discs. These discs will be of a 'glow-in-the-dark' material which are powered by the sun and any artificial light. No details or specifications have been provided for the luminescent discs, therefore officers have conditioned that further details, to include the amount, size, material and colour of these discs is provided prior to above ground works. However the use of luminescent discs is considered acceptable in principle.
- 10.10. To the south west of the site (where the path would adjoin Cavell Road) the existing fence is to be removed and a removable new, sign-caring bollard would be installed. This bollard would measure 0.8m tall and would be 125mm x 125mm timber post. The post would be removable to allow for emergency access into the site.
- 10.11. Signage would also be provided throughout the site. The signage includes a 'unsegregated path for cyclists and pedestrians' sign and an 'end of route' sign to the south eastern boundary, and a 'do not use path when flooded' sign along the path. These signs would all be of an appropriate design and scale and would serve a purpose to inform users of the site. The proposed signage is considered to be acceptable in this regard.
- 10.12. For the reasons set out above, the proposals as amended are considered to be in accordance with policy DH1 of the Oxford Local Plan 2036.

c. Impact on neighbouring amenity

- 10.13. Policy RE7 of the Oxford Local Plan 2036 states that planning permission will only be granted for development that ensures that standards of amenity are protected. This includes the amenity of communities, occupiers and neighbours is protected in addition to not having unacceptable unaddressed transport impacts and provides mitigation measures where necessary.
- 10.14. Given the nature of the proposed development being a path only with associated landscaping and works, it is not considered that there would be any adverse impacts with regard to loss of light, outlook, loss of privacy, nor would the development result in any overbearing impacts.
- 10.15. The proposed luminescent discs will be of a 'glow-in-the-dark' material which are powered by the sun and any artificial light such as those on a bicycle using the path at night time. Given the nature of the discs being reflective and solar powered only, they would be intermittent and less intrusive than more formal, mains powered lighting. On this basis it is not considered that the proposal would have any detrimental impacts on neighbouring properties.
- 10.16. It is noted that the proposed foot and cycle path would sit against the southern boundary of the site whereby it would sit adjacent to the boundary of No. 401 Meadow Lane. Whilst the proposal would potentially bring more activity and pedestrian/cycle movement closer to the shared boundary with the residential properties along Meadow Lane, Officers note that football pitches already lie immediately adjacent to the shared boundary and that users of the recreation ground are not restricted from this boundary in any way. Therefore officers are of the opinion that the proposed path would not give rise to significant levels of

noise and disturbance over and above the existing use of the field whereby the field is used for various sporting and recreational activities and which are in a similar location to the proposed footpath.

10.17. The proposal is therefore acceptable in terms of neighbours' amenity and Policy RE7 and H14 of the Oxford Local Plan 2036.

d. Highways and Pedestrian Safety

10.18. Policy M1 of the Local Plan aims to promote cycling in the city and ensure an accessible environment for cyclists, with the Council expecting development to provide for connected, high quality, convenient, and safe (segregated where possible) cycle routes that are permeable. The principle of enhancing connectivity for pedestrians and cyclists as sustainable modes of transport is supported in accordance with policy M1 and the Local Plan as a whole.

10.19. Policy RE7 of the Oxford Local Plan 2036 states that planning permission will only be granted for development that does not have unacceptable transport impacts.

10.20. Officers note that a number of concerns have been raised with regard to the impact of the proposed development on users of the proposed path and of Meadow Lane in terms of highways safety.

10.21. Oxfordshire County Council Highways Authority originally raised an objection to the proposed scheme as no speed reduction methods were proposed. It was considered that the proposals posed an unacceptable risk to the safety of pedestrians/cyclists who are looking to access the pathway from the Meadow Lane entrance/exit.

10.22. To overcome this objection, amended plans were received showing the installation of 3no staggered bollards at the end of the path where it meets Meadow Lane. The purpose of the staggered bollards is to slow cyclists down as they exit on to Meadow Lane to avoid any potential conflict with other users of the path and Meadow Lane.

10.23. Oxfordshire County Council Highways Authority have been re-consulted on the amended plans for this application and are of the opinion that the introduction of the proposed bollards as well as appropriate signage at the Cavell Road access have addressed their previous highway and pedestrian safety concerns. It is considered that the speed reduction methods in the form of staggered timber bollards at the Meadow Lane access would ensure that the proposal is unlikely to have a detrimental impact on the local highway network in traffic and safety terms.

10.24. Furthermore, the use of luminescent discs along the shared path will ensure that suitable visibility is provided.

10.25. The width of the proposed footway/cycleway meets the recommended width stated in LTN 1/20 and the Oxfordshire cycle design standards and is considered to be acceptable.

10.26. In light of the above assessment, the proposed development is unlikely to have a detrimental impact on the local highway network in traffic and safety terms and would be in accordance with Local Plan policies M1 and RE7 of the Oxford Local Plan 2036.

e. Trees

10.27. Policy G7 of the Oxford Local Plan 2036 states that planning permission will not be granted for development that results in the net loss of green infrastructure features such as hedgerows, trees or woodland where this would have a significant adverse impact or public amenity or ecological interest, and it must be demonstrated that their retention is not feasible and their loss will be mitigated.

10.28. The policy goes on to state that planning permission will not be granted for development resulting in the loss of other trees, except in the following circumstances, that it can be demonstrated that the retention of the trees is not feasible; and where tree retention is not feasible, any loss of tree canopy cover should be mitigated by the planting of new trees or introduction of additional canopy cover, and where loss of trees cannot be mitigated by tree planting on site then it should be demonstrated that alternative proposals for new green infrastructure will mitigate the loss of trees, such as green roofs or walls.

10.29. Policy G8 of the Oxford Local Plan 2036 states that development proposals affecting existing Green Infrastructure features, including hedgerows and trees, should demonstrate how these have been incorporated within the design of the new development where appropriate.

10.30. Donnington Recreation Ground is bound by a number of trees. The most significant tree features are located along the western boundary both within the park and within the off-site group which sits adjacent to an established public footpath i.e. Meadow Lane. These consist of a very large willow, a planted row of lime, several larger ash, and a dense group of willow, ash and understory species.

10.31. A number of objections have been received with regard to the loss of trees and the ambiguity over the number of trees to be removed.

10.32. Since these comments have been received, a revised Arboricultural Implication Assessment has been submitted which clarifies that the proposal would involve the loss of twelve trees and one group of trees including no category A trees, two category B trees, and eleven category C trees.

10.33. Officers have consulted with the Council's Tree Officer who has raised no objection to the proposed scheme subject to the proposed mitigation as detailed below.

10.34. It has been demonstrated that the proposed access to the footpath/cycle path cannot be achieved without losing some trees. Whilst officers note the comments raised with regard to the detrimental visual impact the proposed removal of the trees along the boundary would have on Meadow Lane, it is considered that the impact of the removal of these trees in terms of veteran or trees of particular

quality is nil and it is considered that the impact to visual amenity will be negligible due to the presence of other trees to be retained along the western boundary, and their ability to infill the canopy gap as they grow.

- 10.35. It therefore, becomes an issue of whether the canopy area lost is significant in quantum and if it can be mitigated by replacement tree planting. To assess the impact, officers have looked at the build footprint of the path, where it intersects with and passes through the tree belt on the southwestern corner of the park. There will be 4 larger trees removed and a number of additional smaller stems to facilitate the link and footpath. However, it is more useful to look at the impact in terms of canopy area lost rather than stem numbers,; officers have calculated this from the application drawings to be an approximate maximum of 275m².
- 10.36. The application indicates on the landscape proposals that there will be seven new trees to be planted on site, these are to be planted in open areas and will therefore have space in which to grow to their full size potential. Whilst details of the exact species of replacement trees has not been provided and as such officers cannot quantify the canopy cover that would be achieved in the 25 years period, on the basis of the number of trees and the location of the tree planting, officers are satisfied that regardless of species, there will be a net gain in canopy cover within the site. As a result of the on-site planting of 7 new trees, the proposal is considered to yield a net gain in canopy cover and would enhance the appearance of the park by the placement of trees in locations where there are currently large gaps in the tree cover. The application details of the species of tree replacements can be secured through a landscape plan condition, which will include large growing trees.
- 10.37. The proposed footpath would be constructed within the Root Protection Area (RPA) of eleven trees which run along the southern edge of site. In order to mitigate any harm and damage to these trees, appropriate mitigation methods such as the use of a 3D cellular confinement system, above the existing ground level, within the RPAs with a porous surface to allow air and water to reach the root systems of the affected trees, and temporary ground protection to be installed prior to commencement have been recommended as part of the Arboricultural Method Statement. Therefore, subject to a condition requiring the proposed development to be carried out in accordance with the mitigation measures as outlined in the Arboricultural Method Statement, officers are of the opinion that the proposed development would be acceptable in this regard.
- 10.38. In addition to on-site provision, the proposal also seeks to provide landscaping improvements including the provision of hedgerows and up to thirty three trees at the Greyfriars School in order to mitigate the ecological impacts of the proposal as detailed in the section below. The proposed tree planting off-site is welcome. However from an arboricultural point of view, it is not required in order to justify or mitigate the impacts from the loss of trees within the application site, which will be minor in immediate impact, and adequately mitigated through proposed landscape enhancements, which would yield a net gain in tree canopy, and to landscape quality in the medium to long term.
- 10.39. In this instance, officers are satisfied that the removal of the trees would be sufficiently mitigated by the planting of new trees and the introduction of

additional tree canopy cover on-site within Donnington Recreation Ground. The additional tree planting required for ecology purposes that would be provided off-site at the Greyfriars School would be an added benefit. Therefore, subject to the suggested conditions and the s106 Obligation, the proposed development is considered to be acceptable in accordance with Policies G7 and G8 of the Oxford Local Plan 2036.

f. Ecology and Biodiversity

10.40. Policy G2 of Oxford Local Plan 2036 states that important species and habitats will be expected to be protected from harm, unless the harm can be appropriately mitigated. It also outlines that, where there is opportunity, it will be expected to enhance Oxford's biodiversity. This includes taking opportunities to include features beneficial to biodiversity within new developments throughout Oxford.

Ecological assessment

10.41. The proposed development entails the construction of a path through the Donnington Recreation Ground. This would result in the loss of grassland along the southern boundary of the application site, and approximately 20m from a tree line on the western boundary where it is proposed the path will connect with Meadow Lane.

10.42. The grassland sward is comprised of a narrow range of common species and wildflowers are generally very sparse in the sward. It is intensively managed, as would be expected given the amenity and recreational use of the wider field. The assessment of the grassland being lost has been a point of contention however, it is considered that the grassland has limited intrinsic ecological value.

10.43. The updated Arboricultural Impact Assessment indicates the impacts on the tree line would entail the loss of 12 individual trees and an additional group of trees. The Tree Officer at Oxford City Council as set out above has confirmed there would be no loss of veteran trees or trees of any particular quality. They have also stated that the proposed compensatory planting includes seven trees in open areas onsite that are expected to quickly exceed the canopy area of those lost.

10.44. There is a great deal of local concern with regard to the impact that the loss of trees would have on local ecology.

10.45. The application is accompanied by an Ecological Assessment Report. This report identifies potential impacts on breeding birds and reptiles, which it considers can be avoided through sensitive working practices. These practices should be detailed in a Construction Environmental Management Plan (CEMP) for biodiversity, which can be required and secured via planning condition. Officers are satisfied that a robust assessment has been undertaken and that the potential presence of protected habitats and species has been given due regard. Subject to condition requiring sensitive working practices to be carried out, officers are satisfied that the proposal would not have an impact on protected habitats or species.

10.46. Subject to condition, officers consider that the impacts on the treeline would not be significant ecologically, either as a result of total habitat loss or impacts on function, and therefore that loss is acceptable in national and local planning policy terms.

Biodiversity Net Gain

10.47. Paragraph 174 of the National Planning Policy Framework (NPPF) requires planning decisions to minimise impacts on and provide net gains for biodiversity.

10.48. Policy G2 of the Oxford Local Plan 2036 states that development that results in a net loss of sites and species of ecological value will not be permitted. Compensation and mitigation measures must offset the loss and achieve an overall net gain for biodiversity.

10.49. A number of objections have been received in relation to the biodiversity net gain and the accompanying biodiversity metric.

10.50. For matters of clarification, Policy G2 states that for all major developments proposed on greenfield sites or brownfield sites that have become vegetated, this should be measured through use of a recognised biodiversity calculator. To demonstrate an overall net gain for biodiversity, the biodiversity calculator should demonstrate an improvement of 5% or more from the existing situation.

10.51. As the site is also not a major development, the proposed development is also not required to demonstrate an improvement of 5% or more from the existing situation. Whilst the NPPF (2023) states that all development should provide net gains for biodiversity, there is no specific requirements as to how these impacts and how the biodiversity net gain should be measured.

10.52. A number of concerns have been raised in objection to the scheme as the proposal would not provide a 10% biodiversity net gain. The Environment Act 2021 will require most development to require a mandatory 10% biodiversity net gain. This legislation and the relevant regulations have not come into force yet and are not proposed to come into force until January 2024 onwards, although for small sites the requirement will apply from April 2024. Therefore, this requirement is not relevant to this planning application, and it would be unreasonable for officers to require the proposed development to demonstrate an improvement of 10% or more from the existing situation.

10.53. In support of this application, the application is accompanied by a Biodiversity Metric 3.1 as the means of demonstrating that the project would deliver an increase in biodiversity and therefore comply with the NPPF. The application must therefore satisfactorily demonstrate a net gain in this metric. Given the legislative and policy context outlined above, a gain of any size would be acceptable in planning policy terms as there is currently no requirement for a minimum level.

10.54. In keeping with the Biodiversity Metric 3.1 user guide, net gain should be achieved in all relevant parts of the metric, which is split into habitat, linear, and river sections. There is a brook immediately adjacent to the application site

boundary which would ordinarily warrant inclusion in the river section of the metric. However, the footprint of the proposed path is approximately 100m from the brook, with no potential to impact the brook, and as a result, officers consider that requiring the applicant to complete the river section of the metric would be disproportionate to the nature of the proposal. On that basis, Oxford City Council should require a net gain from the habitat and hedgerow sections of the metric only.

- 10.55. The biodiversity metric has been amended on several occasions over the course of the application in order to address officers concerns. To summarise, the concerns raised were in relation to the survey data not being disclosed which was later deemed inaccurate and a lack of data relating to the off-site enhancements required for the application to meet the net gain requirements. This prevented a full assessment of the planning application. In addition to this, the applicant was seeking to replace habitats being lost with habitats of a lower distinctiveness, thereby failing the 'trading rules' underpinning the metric and the proposed enhancements could not practically be achieved and the post-development grassland onsite was overvalued as a result, artificially inflating the overall net gain position.
- 10.56. Following a revision to the red line boundary (within the Metric) and additional survey work carried out on site by the project's ecologist, the latest biodiversity metric seeks to address the above concerns.
- 10.57. The amended biodiversity metric indicates the proposed development would result in a net gain of 0.38 habitat units onsite (+9.07%) but a net loss of 0.08 hedgerow units (-3.72%). The application site has a low baseline value as a result of the existing grassland being classified as 'modified grassland' in poor condition.
- 10.58. The condition assessment rests on there being fewer than six species per square meter in the grassland sward; any higher would mean the grassland was in good condition, and the proposed development would result in a net loss in habitat units onsite. At the Council's request, the project ecologist undertook a detailed botanical survey of the Recreation Ground in August 2023, utilising a quadrat and calculating there was an average of 4.87 species per square metre in the grassland.
- 10.59. However, this figure relates to the wider Recreation Ground rather than the grassland within application site. Nevertheless, of the 15 squares assessed, approximately eight are within the red line of the application site, and the average of these squares still falls below the six species threshold. One issue with the methodology is that only a handful of quadrats (two or three) are from the proposed location of the footpath and therefore capture the quality of the habitat to be lost. However, officers are satisfied that while there may be small local differences along the route, the impacts of the scheme are satisfactorily captured in the submitted metric.
- 10.60. The applicant is proposing off-site enhancements at Greyfriars School, including enhancing 0.25ha of grassland, a small extent of tree planting, the enhancement of two existing hedges, and approximately 300m of new hedgerow

planting. As represented in the metric, these would lift the overall score of the development proposals (incorporating onsite and offsite) to a net gain of 0.90 habitat units (+21.43%) and 1.61 hedgerow units (+69.76%). This will be secured by the s106 . As with the onsite habitats set out in preceding paragraphs, there are some criticisms about how some of the data has been collected and presented for off site habitats as well. However, given the onsite calculations, officers are of the opinion that an increase would be achieved in hedgerow units.

10.61. On this basis, officers are satisfied that the proposed development will achieve a net gain in biodiversity and therefore would comply with Paragraph 174 of the National Planning Policy Framework and Policy G2 of the Oxford Local Plan 2036.

10.62. In light of the above assessment, the proposed development is not considered to have a detrimental impact on ecology and the proposed development would achieve a net gain in biodiversity. The proposal is therefore considered to comply with Paragraph 174 and 180 of the National Planning Policy Framework and Policies G2 and G7 of the Oxford Local Plan 2036.

10.63. Furthermore the Local Planning Authority, in exercising any of its functions, has a legal duty to have regard to the requirements of the Conservation of Habitats and Species Regulations 2017, which identifies four main offences for development affecting European Protected Species (EPS):

1. *Deliberate capture, injuring or killing of an EPS*
2. *Deliberate disturbance of an EPS, including in particular any disturbance which is likely*
 - a) *To impair their ability –*
 - i) *To survive, to breed, or reproduce, or to rear or nurture their young; or*
 - ii) *In the case of animals of a hibernating or migratory species, to hibernate or migrate, or;*
 - b) *To affect significantly the local distribution or abundance of the species to which they belong*
3. *Deliberate taking or destroying the eggs of an EPS*
4. *Damage or destruction of a breeding site or resting place of an EPS*

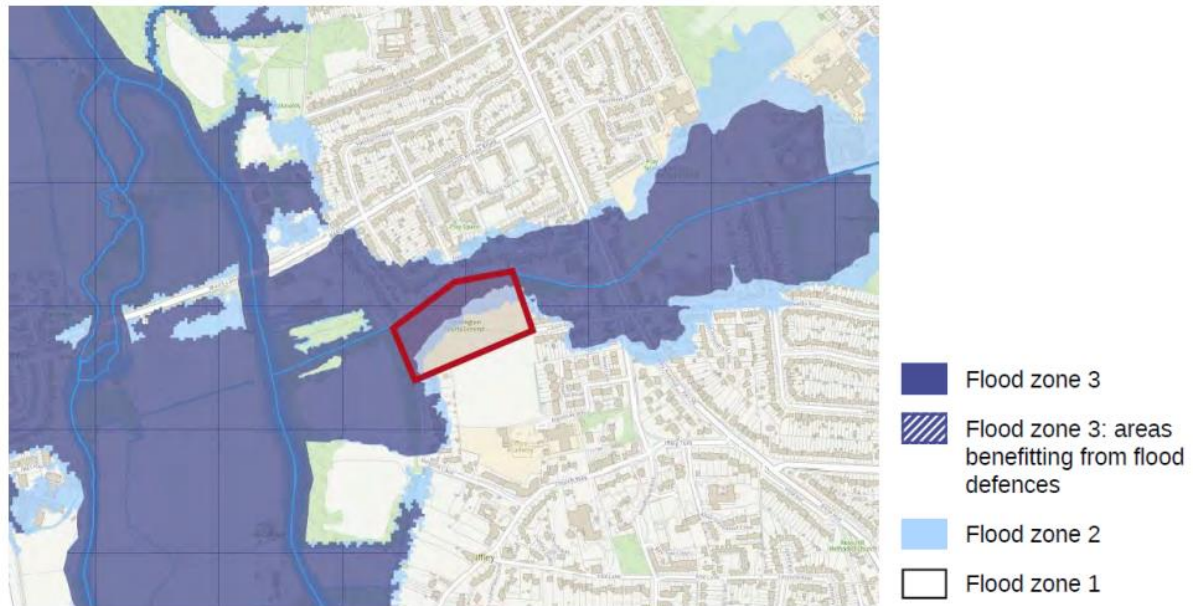
10.64. Officers are satisfied that European Protected Species are unlikely to be harmed as a result of the proposals. Given all of the above and subject to the necessary conditions detailed, the proposals are considered to be in line with Paragraph 174 of the NPPF.

g. Flooding and Drainage

10.65. Policy RE3 of the Oxford Local Plan 2036 states that planning permission will not be granted for development in Flood zone 3b except where it is for water-compatible uses or essential infrastructure; or where it is on previously developed land and it will represent an improvement for the existing situation in terms of flood risk. Minor householder extensions may be permitted in Flood Zone 3b, as they have a lower risk of increasing flooding. Proposals for this type of development will be assessed on a case by case basis, taking into account the

effect on flood risk on and off site. Development will not be permitted that will lead to increased flood risk elsewhere, or where the occupants will not be safe from flooding.

10.66. The Environment Agency's (EA's) publicly available flood zone maps demonstrate that the site is located within Flood Zones 1 to 3.



Extract from Environment Agency's Flood Maps for Planning Service.

10.67. The higher parts of the site, along the southern and eastern corner of the site, is in Flood Zone 1, and hence is at low risk of fluvial flooding (an annual probability of flooding less than 1 in 1,000). Along the northern boundary which is bound by Boundary Brook the site is in Flood Zone 3 and along the western boundary, adjacent to Meadow Lane, this is also within Flood Zone 2 and 3, showing these areas are at medium to high risk of fluvial flooding (an annual probability of flooding greater than 1 in 100 for the Flood Zone 3 areas).

10.68. With regard to the location of the proposed foot and cycle path, flood mapping published by the Environment Agency indicates that a small portion of the western end of the proposed cycleway improvement is located in Flood Zone 2/3 – at medium to higher risk of flooding from fluvial sources.

10.69. As per national and local planning policy requirements, a Flood Risk Assessment (FRA) has been submitted as part of this application. The submitted FRA demonstrates that the proposed path would not raise levels in the floodplain.

10.70. The proposed path would be constructed using a permeable construction, with a Flexipave surface course over Type 3 sub-base. Given the use of permeable and self-draining materials, the proposed path is not considered to result in an increase in runoff/surface water flood risk.

10.71. A Flood Risk Management Plan has also been submitted which extends on the Flood Risk Assessment prepared for the scheme with particular regard to the management of residual risk to end-users associated with potential flood waters. This technical note states that in order to help manage and reduce residual risk to users of the new cycleway, a permanent sign at the western end of the alignment, ahead of the connection to Meadow Lane would be installed. The purpose of the sign would be to warn cycle users not to use Meadow Lane in the event of a flood.

10.72. Therefore subject to a condition requiring the proposed development to be built in accordance with the FRA and in accordance with the flood risk management plan, officers are of the opinion that the proposed development would be acceptable in this regard. It is also considered that the management plan should be reviewed every five years or in the event that the Environment Agency modelled flood extent are updated and affect the site differently. This would be secured via an appropriate condition.

10.73. Subject to conditions, it is therefore considered that the development would comply with Policies RE3 and RE4 of the Oxford Local Plan.

11. CONCLUSION

11.1. Having regards to the matters discussed in the report, officers would make members aware that the starting point for the determination of this application is in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004 which makes clear that proposals should be assessed in accordance with the development plan unless material considerations indicate otherwise.

11.2. The NPPF recognises the need to take decisions in accordance with Section 38 (6) but also makes clear that it is a material consideration in the determination of any planning application (paragraph 2). The main aim of the NPPF is to deliver sustainable development, with paragraph 11 the key principle for achieving this aim. The NPPF also goes on to state that development plan policies should be given due weight depending on their consistency with the aims and objectives of the Framework. The relevant development plan policies are considered to be consistent with the NPPF

11.3. The proposed path and associated works would not have any adverse impacts with regard to visual or residential amenity. It is considered that any harm that would arise from the removal of the trees to facilitate the development has been mitigated through additional tree planting on site. The proposed development is not considered to have a detrimental impact on ecology and would achieve a net gain in biodiversity in accordance with national and local planning policies.

11.4. It is recommended that the Committee resolve to grant planning permission for the development proposed subject to the satisfactory completion (under authority delegated to the Head of Planning Services) of an obligation under section 106 of the Town and Country Planning Act 1990.

12. CONDITIONS

Time Limit

1. The development to which this permission relates must be begun no later than the expiration of three years from the date of this permission.

Reason: In accordance with Section 91(1) of the Town and Country Planning Act 1990 as amended by the Planning Compulsory Purchase Act 2004.

Approved Plans

2. The development referred to shall be constructed strictly in complete accordance with the specifications in the application and the submitted plans. Unless otherwise required by other Conditions to this permission

Reason: To avoid doubt and to ensure an acceptable development as indicated on the submitted drawings in accordance with policy DH1 of the Oxford Local Plan 2036.

Materials as specified

3. The materials to be used in the proposed development shall be as specified in the application hereby approved. There shall be no variation in these materials without the prior written consent of the Local Planning Authority.

Reason: To ensure that the development is visually satisfactory as required by Policy DH1 of the Oxford Local Plan 2036.

Footpath Works

4. The associated footpath works including the installation of the timber kissing gate, removable bollard, staggered timber bollards and the associated signage as shown on drawings 44896/5527/006 REV E (General Arrangement Plan) and 44896/5527/SD001 REV C (Construction Details), shall be provided on site prior to first use of the development hereby approved. The development shall be carried out in accordance with the approved details and retained in perpetuity.

Reason: To avoid doubt and to ensure an acceptable development as indicated on the submitted drawings in accordance with policy DH1 of the Oxford Local Plan 2036.

Luminescent Discs

5. Prior to the installation of the 'luminescent discs' shown on drawing 44896/5527/006 REV E (General Arrangement Plan), detailed specification of the proposed 'luminescent discs' including the number, size, location and colour/finish shall be submitted to and be approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained in perpetuity.

Reason: To ensure that the development is visually satisfactory as required by Policy DH1 of the Oxford Local Plan 2036.

SuDS

6. All impermeable areas of the proposed development, including the pathway shall be drained using Sustainable Drainage measures (SuDS). This may include the use of porous pavements and infiltration, or attenuation storage to decrease the run off rates and volumes to public surface water sewers and thus reduce flooding. Soakage tests shall be carried out in accordance with BRE Digest 365 or similar approved method to prove the feasibility/effectiveness of soakaways or filter trenches. Where infiltration is not feasible, surface water shall be attenuated on site and discharged at a controlled discharge rate no greater than prior to development using appropriate SuDS techniques and in consultation with the sewerage undertaker where required. If the use of SuDS are not reasonably practical, the design of the surface water drainage system shall be carried out in accordance with Approved Document H of the Building Regulations. The drainage system shall be designed and maintained to remain functional, safe, and accessible for the lifetime of the development.

Reason: To avoid increasing surface water run-off and volumes to prevent an increase in flood risk in accordance with policy RE4 of the Oxford Local Plan 2036.

Flood Risk Assessment

7. The development hereby approved shall be built in accordance with the Flood Risk Assessment prepared by Stantec dated 6th October 2022 and the Flood Risk Management Plan prepared by Stantec dated 23rd February 2023 and retained thereafter in accordance with the Flood Risk Management Plan or any updated Plan approved by the Council following a review in accordance with this condition. The Flood Risk Management Plan (FRMP) shall be reviewed in the event of a flood affecting the site, or should the flood risk change, and any revisions shall be submitted to and approved in writing by the Local Planning Authority and any works required by the approved reviewed FRMP carried out within 3 months of the review date and adhered to thereafter.

Reason: To avoid increasing surface water run-off and volumes to prevent an increase in flood risk or changes in ground water and surface water flow in accordance with policies RE4 and G2 of the Oxford Local Plan 2036.

Construction Environmental Management Plan (Biodiversity)

8. No development shall take place (including ground works and 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 the following:

- a) Risk assessment of potentially damaging construction activities;
- b) Identification of “biodiversity protection zones” in respect of protected and notable species and habitats;
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts on biodiversity during construction (may be provided as a set of method statements) and biosecurity protocols;
- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) Contingency/emergence measures for accidents and unexpected events, along with remedial measures;
- f) Responsible persons and lines of communication;
- g) The role and responsibilities on site of a qualified ecological clerk of works (ECoW) or similarly competent person if required, and times and activities during construction when they need to be present to oversee works; and
- h) Use of protective fences, exclusion barriers and warning signs;

The approved CEMP 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 prevent harm to species and habitats within and outside the site during construction in accordance with The Conservation of Habitats and Species Regulations 2017 (as amended), The Wildlife and Countryside Act 1981 (as amended) and Policy G2 of the Oxford Local Plan 2036.

Landscape Ecological Management Plan (LEMP)

9. No development shall take place (including ground works and vegetation clearance) until a landscape and ecological management plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The LEMP shall include the following:
 - a) Description and evaluation of features to be managed.
 - b) Ecological trends and constraints on site that might influence management.
 - c) Aims and objectives of management.
 - d) Appropriate management options for achieving aims and objectives.
 - e) Prescriptions for management actions.
 - f) Preparation of a work schedule.
 - g) Details of the body or organisation responsible for implementation of the plan.
 - h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The development shall be carried out, maintained and retained in accordance with the approved LEMP

Reason: To enhance biodiversity in the City in accordance with the National Planning Policy Framework.

Landscape Plan Required

10. Notwithstanding the submitted plans the development shall not be brought into use until a landscape plan has been submitted to and approved in writing by the Local Planning Authority . The plan shall show details of treatment of paved areas, and areas to be grassed or finished in a similar manner, existing retained trees and proposed new tree, shrub and hedge planting. The plan shall correspond to a schedule detailing plant numbers, sizes and nursery stock types. The development shall be carried out in accordance with the approved Landscape Plan.

Reason: In the interests of visual amenity in accordance with policies G7, G8 and DH1 of the Oxford Local Plan 2016-2036.

Landscape Proposals: Implementation

11. The landscaping proposals as approved by the Local Planning Authority in the approved Landscape Plan shall be carried out no later than the first planting season after first use of the development hereby approved unless otherwise agreed in writing beforehand by the Local Planning Authority.

Reason: In the interests of visual amenity in accordance with policies G7, G8 and DH1 of the Oxford Local Plan 2016-2036.

Landscape Proposals: Reinstatement

12. Any existing retained trees, or new trees or plants planted in accordance with the details of the approved Landscape Plan that fail to establish, are removed, die or become seriously damaged or defective within a period of five years after first use of the development hereby approved shall be replaced. They shall be replaced with others of a species, size and number as originally approved during the first available planting season unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity in accordance with policies G7, G8 and DH1 of the Oxford Local Plan 2016-2036.

Arboricultural Method Statement

13. The development shall be carried out in strict accordance with the approved methods of working and tree protection measures contained within the planning application details (including drawing number 230331-1.2-OCSDPF-TPP-SH - Tree Protection Plan, unless otherwise agreed in writing beforehand by the Local Planning Authority,

Reason: In the interests of visual amenity in accordance with policies G7, G8 and DH1 of the Oxford Local Plan 2016-2036.

INFORMATIVES :-

- 1 In accordance with guidance set out in the National Planning Policy Framework, the Council tries to work positively and proactively with applicants towards achieving sustainable development that accords with the Development Plan and national planning policy objectives. This includes the offer of pre-application advice and, where reasonable and appropriate, the opportunity to submit amended proposals as well as time for constructive discussions during the course of the determination of an application. However, development that is not sustainable and that fails to accord with the requirements of the Development Plan and/or relevant national policy guidance will normally be refused. The Council expects applicants and their agents to adopt a similarly proactive approach in pursuit of sustainable development.

13. APPENDICES

- **Appendix 1 – Site location plan**

14. HUMAN RIGHTS ACT 1998

- 14.1. Officers have considered the implications of the Human Rights Act 1998 in reaching a recommendation to approve this application. They consider that the interference with the human rights of the applicant under Article 8/Article 1 of Protocol 1 is justifiable and proportionate for the protection of the rights and freedom of others or the control of his/her property in this way is in accordance with the general interest.

15. SECTION 17 OF THE CRIME AND DISORDER ACT 1998

- 15.1. Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to grant planning permission, officers consider that the proposal will not undermine crime prevention or the promotion of community.

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