

Case Officer: Katherine Daniels

Recommendation: Refuse

Applicant: SGJ Limited

Proposal: Residential development of 2-3 dwellings

Expiry Date: 21 July 2022

1. APPLICATION SITE AND LOCALITY

- 1.1. The site is located to the east of Main Street, Wendlebury which is a village to the south-west of Bicester. Wendlebury contains a wide range of dwelling types and sizes, with their design and site layout reflecting the age of construction.
- 1.2. The site is an area of open grass land set behind Bridge House and The Villas which front onto Main Street. The site is accessed by a gravel access between Bridge House and the Lion Public House which is a Grade II listed property. This current access serves Bridge House and 1 The Villas. It also provides informal parking for 2 The Villas.
- 1.3. The site rises slightly from the main road and accommodates 2 trees which are protected by tree preservation orders, an Ash tree on the northern boundary and a walnut tree on the southern boundary. A stable building and manège exists to the east of the site. The Red Lion public house exists to the north of the site and Farriers Mead to the south. This consists of a number of more modern detached properties located in a cul-de-sac arrangement.
- 1.4. A brook exists along Main Street and part of the access to the site is located in Flood Zone 2 and 3. The site is also located within a medium area of archaeological potential and within an area of potentially contaminated land.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. This is a proposal for a permission in principle for 2 or 3 dwellings. You can only consider the land use, location and amount of proposed development. Further details will be considered at the technical details consent stage.

3. RELEVANT PLANNING HISTORY

- 3.1. The following planning history is considered relevant to the current proposal:
- 3.2. 95/00819/OUT – Outline for erection of 3 dwellings – REFUSED as it was outside the built limits and the proposed access was substandard in visibility and geometric terms.
- 3.3. 15/00252/F – Erection of 2 no. detached houses with garages - WITHDRAWN

- 3.4. 16/01645/F – Erection of 2 no. detached dwellings with garages – re-submission of 15/00252/F – REFUSED as it was outside the built limits, character and appearance of the locality and impact on trees.

4. PRE-APPLICATION DISCUSSIONS

- 4.1. No pre-application discussions have taken place with regard to this proposal

5. RESPONSE TO PUBLICITY

- 5.1. This application has been publicised by way of a Site Notice displayed near the site, expiring **15 July 2022**, and by letters sent to properties adjoining the application site that the Council has been able to identify from its records. The overall final date for comments was **15 July 2022**.

- 5.2. 13 letters of objection have been received. The comments raised by third parties are summarised as follows:

- Increase in flooding risk
- Highway Safety
- Lack of infrastructure
- Nothing has changed since previous refusals
- Publicity is too short
- Impact on residential amenity through loss of privacy
- Not a sustainable village
- Impact on TPO tree
- Not infill development

- 5.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

6. RESPONSE TO CONSULTATION

- 6.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 6.2. Wendlebury Parish Council - Wendlebury Parish Council wishes to object to the application on the following planning policy grounds: Cherwell Local Plan 2011 - 2031 confirms that Wendlebury is a category C village limited to conversions and infilling within built up limits. This application for Permission in Principle falls outside the village boundaries and is therefore development in open countryside on agricultural land, not allocated for development purposes and should be rejected as it is contrary to agreed policy and village categorisation. The proposed development of 2/3 houses brings no benefit to the community and places undue pressure on an existing overloaded infrastructure, particularly in relation to flooding, water pressure & sewerage capacity, without offering any sustainable improvements. As with the

previous application nothing has changed, it is a larger application than last time therefore even less ability for the existing foul/surface water systems to cope Key Issues The proposed site has a history of flooding, the Environment Agency flood risk map for Wendlebury shows the site just outside a flood risk area. in practice this is not the case as previous flooding episodes, for example 2012 confirm, for example in November 2012 confirm. The development of the site will cause run off to be increased considerably. Thames Water have indicated to the Parish Council that they have concerns about the capacity of the existing sewerage system particularly during heavy rainfall. Local residents from neighbouring properties in the vicinity of the proposed development site have informed the Parish Council of their strong objections to the proposal. * Wendlebury already has a traffic issue problem & exit from the site onto the Wendlebury Main street (Bicester -Oxford road). Traffic access very poor for this number of dwellings. Conclusions This is an opportunistic application, against all current local plan policies Previous Reasons for refusal by CDC Planners 1 The site lies outside the limits of the settlement in open countryside where new development is restricted to the conversion of suitable buildings or a proven essential needs established. As no such need exists the proposal is contrary to Policy EN7 of the Oxfordshire Structure plan & H17 of the Cherwell plan. 2 The access from which it is proposed to serve the development is substandard in both vision & geometric terms. Its use for the purpose proposed will result in a detriment to other road users.

STATUTORY CONSULTEES

- 6.3. Environment Agency – No comments received to date
- 6.4. Oxfordshire County Council (Local Highway Authority) – No comments at this stage.

NON-STATUTORY CONSULTEES

- 6.5. Cherwell District Council (Arboriculture) - Requests an arboriculture report
- 6.6. Cherwell District Council (Land Drainage) – No comments in principle, there may be a low risk of surface water flows across the site under certain conditions. The potential will need to be accommodated within the site layout.
- 6.7. Cherwell District Council (Conservation) - The application site is not within a conservation area but is adjacent to The Lion public house which is a grade II Listed Building. There are no objections to the proposal in principle as it is considered that an appropriate scheme would not result in harm to the significance of the Listed Building through development within its setting. However, the overall acceptability and resulting impact will depend on the scale and design of the development.
- 6.8. Cherwell District Council (Ecology) – No comments received to date
- 6.9. Cherwell District Council (Landscape) – No comments received to date.

7. RELEVANT PLANNING POLICY AND GUIDANCE

- 7.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though

many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- PSD1 – Presumption in favour of Sustainable Development
- BSC1: District wide housing distribution
- ESD1: Mitigating and adapting to climate change
- ESD6: Sustainable flood risk management
- ESD10: Biodiversity
- ESD13: Local landscape protection and enhancement
- ESD15: The character of the built and historic environment
- Villages 1: Village categorisation

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18: New dwellings in the countryside
- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- ENV12: Contaminated land

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide (2018)
- Cherwell Council Home Extensions and Alterations Design Guide (2007)

8. APPRAISAL

8.1. The key issues for consideration in this case are:

- Principle of development

8.2. *Principle of Development*

8.3. The NPPF explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs. So that sustainable development is pursued in a positive way, the NPPF includes a 'presumption in favour of sustainable development' (para. 10). Paragraph 11 states that applying the presumption to decision-making means:

approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites), granting permission unless:

- *the application of policies in this Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed; or*

- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

- 8.4. The position in which the most important housing policies are considered to be out-of-date because of the absence of a five-year housing land supply is referred to as the 'tilted balance'.
- 8.5. Paragraph 12 advises, 'The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.'
- 8.6. Section 5 of the NPPF covers the issue of delivering a sufficient supply of homes and states, 'To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay'.
- 8.7. Paragraph 74 highlights the need for Local Planning Authorities (LPAs) to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old (unless these strategic policies have been reviewed and found not to require updating as in Cherwell's case). The supply of specific deliverable sites should, in addition, include a buffer - 5% in Cherwell's current circumstances (moved forward from later in the plan period).

Development Plan

- 8.8. The Development Plan for this area comprises the adopted Cherwell Local Plan 2011-2031 Part 1 ('CLP 2015') and the saved policies of the Cherwell Local Plan 1996 ('CLP 1996'). -
- 8.9. The CLP 2015 seeks to allocate sufficient land to meet district-wide housing needs. The Plan states, 'The most sustainable locations for growth in the District are considered to be Banbury, Bicester and the larger villages as identified in Policies Villages 1 and Villages 2 as these settlements have a range of services and facilities, reducing the need to travel by car'.
- 8.10. Policy BSC1 states that Cherwell District will deliver a wide choice of high quality homes by providing for 22,840 additional dwellings between 1 April 2011 and 31 March 2031. Paragraph E.10 of the Plan states, 'Housing delivery will be monitored to ensure that the projected housing delivery is achieved. The District is required by the NPPF and the PPG (to maintain a continuous five-year supply of deliverable (available, suitable and achievable) sites as well as meeting its overall housing requirement'.
- 8.11. Cherwell's five-year housing land supply position was reviewed in the 2021 Annual Monitoring Report (AMR). Despite a strong record of delivery since 2015, the AMR presents a 3.5-years supply position for the period 2022-2027. An additional 2,255 homes would need to be shown to be deliverable within the current 2022-2027 five-year period to achieve a five-year supply as required by the NPPF.

- 8.12. Policy Villages 1 of the Cherwell Local Plan provides a framework for housing growth in the rural areas and seeks to deliver new development to the most sustainable locations. It includes Wendlebury as a Category C village, which is amongst the least sustainable of rural settlements, where only limited infilling and conversion may be appropriate within the built-up limits.
- 8.13. The Local Plan does not define the built limits of the village and this is assessed on a case by case basis. It is considered that for an area to be within the built limits it should contain a significant amount of built form and have a clear physical and visual connection with the surrounding built development. In this case the application site is an area of green field to the rear of properties on Main Street and has a detached relationship with the surrounding built development. It has a closer visual relationship with the surrounding countryside than the neighbouring built development. It is located in a backland position and upon entering the site there is an impression of leaving the built part of the village and entering the surrounding fields. Overall, it is therefore considered that the proposed site is situated outside of the built-up limits. In these cases, saved Policy H18 of the CLP 1996 is relevant and states that planning permission will only be granted for construction of new dwellings outside of the built limits in a limited number of circumstances none of which are relevant in this case.
- 8.14. The development is therefore considered to conflict with Policy ESD1 and Villages 1 of the Cherwell Local Plan Part 1 and saved Policy H18 of the 1996 Local Plan all of which seek to provide a strategic policy approach which directs new dwellings to the most sustainable locations.
- 8.15. Even if it were to be concluded that the site did lie within the built limits of Wendlebury, Policy Villages 1 only allows for limited infill and conversion in category C villages. Paragraph C.264 of the Cherwell Local Plan Part 1 (2011-2031) defines infill development and states: 'Infilling refers to the development of a small gap in an otherwise continuous built-up frontage.' The site as described above is a backland site, and is not located within a built-up frontage.
- 8.16. The village does have a public house; however, it does not have a convenience store, nor does it have a primary school. Given the nature of the roads, the prime mode of transportation would be by the private motor car.
- 8.17. It is noted that a significant benefit of the benefit of the construction of up to three dwellings, would be to the housing land supply issue, given the sites character and appearance it is considered that the balance is tipped in favour of refusal of the application. The proposal will not result in a sustainable form of development and would result in significant and demonstrable harm to the character and appearance of the locality.

Third Party Comments

- 8.18. The application is for a permission in principle only. The Local Planning Authority can only consider the land use, amount of development and location of the proposed development. Concerns on impact on conservation, landscape, flooding, impact upon neighbours, designated heritage assets etc would be considered at the technical stage if permission in principle was granted.

9. PLANNING BALANCE AND CONCLUSION

- 9.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 9.2. The proposed development would result in development outside the confines of Wendlebury, which is designated as a Class C Village. This is the least sustainable village within the district. It only allows for appropriate infilling, which this is not considered to be. The development of this land would result in a development which is not in keeping with the existing pattern of development.
- 9.3. It is acknowledged CDC do not have a housing land supply, which does weigh in favour of the proposed development. The construction of 2/3 dwellings will not result in a significant alteration to the Council's housing land supply. The proposed development would have a significant and demonstrable harmful impact to the character and appearance of the locality and with the village's heavily reliance on a private motor vehicle, the proposal will not result in a sustainable form of development. The limited benefits of the scheme do not outweigh the harm caused.

10. RECOMMENDATION

That permission is refused, for the following reason:

1. The proposed development constitutes residential development in the open countryside for which it has not been demonstrated that there is an essential need. The development would therefore be an unjustified and unsustainable form of development, beyond the built-up limits of Wendlebury, a Category C Village, where residential development is restricted to infilling and conversions. The benefits of the scheme do not outweigh the harm identified. As such the proposal is considered to be contrary to Policies ESD1 and Villages 1 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy H18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Case Officer: Katherine Daniels

DATE: 26/7/22

Checked By: Paul Ihringer

DATE: 26/7/22
