

Case Officer: Caroline Ford

Applicant: Hollins Strategic Land LLP

Proposal: Resubmission of application 17/02394/OUT – Outline application for permission for up to 40 dwellings with associated landscaping, open space and vehicular access off Berry Hill Road (all matters reserved other than access)

Ward: Adderbury, Bloxham and Bodicote

Councillors: Councillor Bishop, Councillor Heath and Councillor McHugh

Reason for Referral: Major development

Expiry Date: 31 January 2020

Committee Date: 16 January 2020

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: REFUSE PERMISSION

Proposal

The application seeks permission for a residential development of up to 40 dwellings. The application is made in outline with all matters reserved for later approval apart from access, permission for which is sought at this stage.

Consultations

The following consultees have raised **objections** to the application:

- Adderbury Parish Council, CDC Planning Policy, CDC Landscape

The following consultees have raised **no objections** to the application:

- OCC Highways, OCC Drainage, OCC Education, OCC Archaeology, Thames Water

The following consultees have raised comments/ concerns:

- CDC Ecology, CDC Arboriculture, CDC Waste and Recycling, CDC Building Control, CDC Housing, CDC Recreation and Leisure, CDC Environmental Protection, Historic England, Thames Valley Police

A total of 58 letters of objection have been received.

Planning Policy and Constraints

The site sits outside the Adderbury Settlement boundary as defined by Policy AD1 of the Adderbury Neighbourhood Plan and it has a number of recorded site constraints including that the land has some potential for naturally occurring contamination, ecology and archaeology and public rights of way run within and surrounding the site. In addition, there are heritage constraints including the Adderbury Conservation area to the north and views towards the Grade I listed Church of St Mary.

The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan (which includes the Adderbury Neighbourhood Plan 2014-2031) and

other relevant guidance as listed in detail at Section 8 of the report.

Conclusion

The key issues arising from the application details are:

- Planning History
- Principle of development
- Landscape and Visual Impact
- Design and layout
- Heritage impact
- Housing mix/ affordable housing
- Residential amenity
- Transport and sustainability of the site
- Flood risk and drainage
- Trees, landscaping and open space – cover benefit of open space provision
- Ecology impact
- Environmental matters
- Sustainability and energy efficiency
- Planning Obligations

The report looks into the key planning issues in detail, and Officers conclude that the proposal is unacceptable for the following reasons:

1. Unnecessary and unacceptable housing development beyond the built-up limits of the village where there is no need for further housing and which is therefore undesirable, unsustainable development. The site is also considered to be distant from local services and facilities such that future occupiers would be highly reliant on the private car for day to day needs.
2. The impact of the development due to its poorly integrated relationship with existing built development beyond the Adderbury Settlement Boundary as defined by the Adderbury Neighbourhood Plan 2014-2031 and its impact on the local landscape character which would cause harm to the rural setting of the village and the character and appearance of the area. The proposal would also cause less than substantial harm to the setting of the Church of St Mary and the harm would not be outweighed by public benefits.
3. The absence of the completion of a satisfactory S106 agreement to secure necessary infrastructure to mitigate the impacts of the development.

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is to the south of the village of Adderbury to the north side of Berry Hill Road, close to the A4095 but separated from it by a field and a public right of way. The land extends to 4ha in area and is currently agricultural land surrounded by field hedgerows and trees. To the eastern side of the site is a stable and haybarn and part of the land is currently used for associated equestrian purposes. To the south and east of the site are agricultural fields, to the west is residential development in the form of a ribbon of detached houses set back from Berry Hill Road and to the north is further agricultural land with a sewerage treatment works close to the northern boundary of the site.

2. CONSTRAINTS

- 2.1. In terms of recorded site constraints, the site has some potential for naturally occurring contamination, there are ecological records nearby and a public right of way runs along the northern edge of the site (and to the eastern side but outside of the site). In terms of heritage assets, the Adderbury Conservation Area boundary is approximately 180m to the north of the site, there are views available from Berry Hill Road towards the Grade I listed Church of St Mary and the site has some potential for archaeological interest. Otherwise, there are naturally occurring constraints including the topography of the land, which slopes to the north and the field boundaries of hedgerows/ trees.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks outline planning permission for a residential development of up to 40 dwellings (the scheme has been amended whilst the application has been with the Council, which will be explained in the appraisal section of the report). All matters are reserved for later approval apart from access, which requires consideration now. The application is accompanied by a range of information, including technical assessments and an indicative layout to demonstrate that the development applied for can be accommodated.

4. RELEVANT PLANNING HISTORY

- 4.1. The following planning history is considered relevant to the current proposal:

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
02/01009/F	Erection of stable and hay barn and a manège and track to existing access	Application permitted
05/01468/F	1 no. bungalow with associated access and re-site existing stables	Application refused
06/00712/OUT	OUTLINE application for 5 No. detached dwellings, two terraces of 6 No. dwellings for affordable housing. New access, screened parking and amenity area	Application Refused Appeal Dismissed
17/02394/OUT	Outline planning permission for up to 55 dwellings with associated landscaping, open space and vehicular access off Berry Hill Road	Application Refused Appeal Withdrawn

- 4.2. Application 06/00712/OUT was the subject of a planning appeal which was subsequently dismissed. The reasons for the appeal being dismissed were predominantly due to the Inspector finding that the development would have a significant adverse impact on the character and appearance of the area and would conflict with policies which aim to control residential development within the countryside and that the proposed houses would be provided in an unsustainable location. More detailed reasoning from this appeal decision is referred to where relevant in the following appraisal.
- 4.3. An appeal was lodged against the refused application 17/02394/OUT which was due to be heard at a Public Inquiry. The Council had begun some early work to prepare

its case but the applicant withdrew the planning appeal and submitted this application. When it was originally submitted, it proposed the same development and was supported by the same information as the refused application 17/02394/OUT, but following discussion, the applicant indicated that they wished to amend the application to attempt to overcome the reasons for refusal of 17/02394/OUT. The appraisal for this scheme will assess whether the reasons for refusal have been overcome.

5. PRE-APPLICATION DISCUSSIONS

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

6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **07/11/2019**, although comments received after this date and before finalising this report have also been taken into account.

6.2. A total of 58 letters have been received in objection to the proposal (this includes comments from households to both the original and amended proposal so multiple responses from the same household). A letter from West Adderbury Residents' Association has also been submitted. The comments raised by third parties are summarised as follows:

- Impact on character and appearance of area: The site is beyond the built-up limits of the settlement of Adderbury outside the residential settlement boundary as per the adopted Adderbury Neighbourhood Plan and would damage the landscape. The land is elevated overlooking the centre of the village. The proposal does not comply with Policy ESD13 of the Cherwell Local Plan.
- The village is struggling to maintain a sense of community taking into account other new developments. The village feels fragmented in terms of east and west. Green spaces within and between settlements are essential to retain the character of villages. Further urbanisation will destroy the villages rural atmosphere enjoyed by villages and visitors and would change the nature of West Adderbury. The development would be out of keeping with the character of Berry Hill Road and would affect the amenity of the adjoining properties.
- Previous developments have affected the character of the village and this is the last remaining uninterrupted view of the church and basin of the village.
- Principle of development: The site was rejected in the 2014 Strategic Housing Land Availability assessment and the 2017 Housing and Economic Land Availability Assessment. Cherwell District Council has a five-year housing land supply and so there is no justification for committing development on unallocated land.
- Historically planning permission has been refused on the site and dismissed at appeal.
- Sustainability: It is in an unsustainable location. It is divorced from the centre of the village and the facilities the village has to offer and residents will be

reliant on the car. The school is not in walking distance and is at capacity. Other facilities in the village are far from the site. The site has limited access to the village centre as the footpaths referred to are not well used and overgrown and are unsuitable for cycling or pushchairs.

- The village facilities have reduced with the closure of the village shop.
- Local bus services have reduced.
- Traffic & transport: There will be a significant increase in traffic including an increase in traffic movements exiting Berry Hill Road onto the A4260. There have been a number of accidents at this junction. Increased traffic would result in increased disturbance and pollution.
- Concerns over the conclusions of the transport statement compared to traffic surveys completed on behalf of the Parish Council.
- A new pathway is shown in a highly dangerous position taking into account traffic entering the village from both directions. The proposed crossing point in Horn Hill Road is close to the junction of three-way traffic and a blind corner.
- The footway at 2m wide would visually dominate and urbanise the well maintained lawns. The position of the crossing at the Horn Hill Road end of the village is in a dangerous place with limited visibility and this is in the conservation area and adjacent to listed buildings and would impact negatively.
- Heritage: Views are available towards the historic St Mary's Church and Conservation area and this should be preserved.
- Archaeology: The site has some archaeological potential and so field evaluations should be undertaken.

Other matters raised:

- Flats must be the answer to housing.
- Concerned about the noise and disturbance the building work would cause.
- The school has struggled with space and has inadequate parking.
- There is an increased risk of flooding.
- Development will be detrimental to local wildlife.
- How does this proposal respond to climate change matters?
- The land is identified as Grade 2 agricultural land and a gasometer was removed so some pollution may be expected.
- Concern regarding the potential for the increase in crime.

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

7. RESPONSE TO CONSULTATION

7.1. 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

7.2. ADDERBURY PARISH COUNCIL: **objects** on the following grounds:

- There is no requirement for further development in the rural areas such as Adderbury and CDC has a 5.6 year housing land supply.
- The site is outside the village built up area and is contrary to CDC policies and Policy AD1 of the Adderbury Neighbourhood Plan.
- The proposal is an overdevelopment of the site.
- Development would detract from important views of the Church and the original and historic centre of the village.
- It would be detrimental to the amenity value of a number of footpaths and bridleways which cross this part of the parish.
- The proposed design does not reflect the character of the linear layout of existing dwelling along Berry Hill Road (subject of Adderbury Neighbourhood Plan policy AD16).
- The application could set a precedent.
- If CDC is minded to approve the proposal, there should be provision for community benefit and a list of requests is made. However, the following specific points are made:
 - The new footpaths along Horn Hill Road are welcomed but residents should be consulted and it should be narrow and in keeping with the area.
 - The Parish Council has plans for traffic calming on Berry Hill Road and S106 funding for this would be welcomed.
 - S106 contributions towards the Parish Council project on the Milton Road is sought.

CONSULTEES

7.3. CDC PLANNING POLICY (two responses received, summarised as follows):
Objection:

- Adderbury is a category A village, one of the more sustainable villages in the District.
- Policy Villages 2 provides for a total of 750 homes to be delivered at the Category A village on new sites of 10 or more dwellings.
- The proposal would assist in meeting Policy Villages 2 housing requirements and could contribute to the provision of affordable housing.

- The Policy Team's initial comments were made in the context of the 2018 Annual Monitoring Report. The conclusions of the Policy Team's most recent monitoring work are now reported in the 2019 Annual Monitoring Report, approved by Members at their Executive meeting on the 06 January 2020, the main relevant conclusions of which are reported in the Officer's appraisal of this application.
- The Secretary of State for Ministry of Housing, Communities and Local Government issues a written statement on 12 September 2018 containing a temporary change to housing land supply policies as they apply in Oxfordshire. The Oxfordshire Authorities will only need to demonstrate a 3 year housing land supply and not 5 years so that the authorities can focus their efforts on the Joint Statutory Spatial Plan.
- The site was considered in the Housing and Economic Land Availability Assessment and was concluded as being unsuitable.
- Adderbury is a historic village and development is required by Policy ESD15 to complement and enhance the character of its context. The advice of the design and conservation team should be sought.
- The site falls within the Adderbury Neighbourhood Plan area. The Plan is now part of the statutory Development Plan and has been formally made by the Council in July 2018.
- The site lies outside of the settlement boundary. Policy AD1 does not support development outside the settlement boundary unless the proposals can demonstrate they can enhance or at least not harm local landscape character.
- Adderbury is a sustainable village and policy villages 2 does make provision for some development to take place in such settlements. However, the HELAA suggests that this is an unsuitable site for development. There is no pressing need for additional land to be released and the merits of providing additional housing needs to be considered alongside issues such as the loss of open countryside, the impact on the existing settlement pattern and the impact on heritage assets and landscape.

7.4. CDC LANDSCAPE (response to original scheme):

- Disappointed that the Design and Access Statement does not include principles that inform the detailed landscape design. The play area should be located within the development so that it is overlooked.
- Comments provided to the various viewpoints submitted, some of which are considered to under-estimate the effects.
- Whilst the development has limited visibility in the wider landscape, there are many other reasons why it is undesirable:
 - The site is surrounded by open countryside apart from one dwelling adjacent at one corner. Last House and the dwelling opposite mark the end of the built up area of Adderbury. As you turn off Oxford Road, it is not clear where the village of Adderbury starts. The site is an important green open space on the edge of the settlement that makes a significant contribution to the character and appearance of Adderbury.

- The proposed development is out on a limb visually and intrudes into open countryside.
 - The existing settlement pattern along Berry Hill Road is one of low density large detached houses with long drives and large gardens. This development does not follow that pattern and is out of character with it. The urban form will not integrate into the existing settlement pattern.
 - The site allows an attractive view of the church which would mostly be lost; it would only be available as a fleeting glimpse from Berry Hill Road.
 - The hedge along Berry Hill Road is a weak screen being thin at the base, gappy and leggy. It is like a line of weak trees which would require works that would make it less effective as a screen. Reinforcing this would be difficult as planting in the shade of other trees is not effective. Sections will be removed for visibility splays and provision of a footpath link. The remainder is likely to be reduced in height, weakening the screen.
 - The development would result in Adderbury village starting as soon as you turn off Oxford Road which would negatively affect the setting of the village.
- LAP and LEAP play areas required to be provided on site with detail provided as to their specification and the revenue cost of ongoing management and maintenance. Also required are commuted sum costs towards ongoing management of the public open space area and balancing ponds.

7.5. CDC LANDSCAPE (response to amended scheme):

- There is little evidence of the difference that the reduction in number of dwellings would make.
- The LVIA states that 'surrounding vegetation... provides substantial separation of the site from its context and in particular the village of Adderbury'. It is considered this is not desirable and does not support the application.
- There is not a substantial tree belt along Berry Hill Road. The evidence shows it is a gappy hedge.
- Not convinced that the slight possibility of the church spire being possibly more visible in the latest proposal is sufficient to reduce the effect of the development.

7.6. CDC ECOLOGY (response to amended scheme):

- The surveys carried out are fine, however should permission be granted, additional surveys would be required in certain conditions. These are mostly outlined in the Ecological Appraisal and can be conditioned with a note to ensure adherence to the recommendations in the Addendum Ecological note 2019. A mitigation strategy for swallows should also be put in place.

- The biodiversity impact assessment shows that approximately 4% net gain could be achieved on site with the current proposed layout, although there is a query regarding whether a moderate condition could be feasible where it is adjacent to the amenity grassland and publicly accessible. CDC has recently agreed to seek to achieve a minimum of 10% in biodiversity net gain. It is considered that more needs to be achieved in the final scheme for the level of net gain to be acceptable and there may be a need for offsetting.
- Biodiversity enhancements should be included within a Biodiversity Enhancement Scheme or as part of a LEMP. At least 40 bat bricks or bird boxes and swift/ sparrow bricks should be included throughout the development (with regard to most appropriate locations/ clustering). In addition, other enhancements are suggested which would contribute to a net gain. A lighting strategy would be required.

7.7. CDC ARBORICULTURE: (response to original scheme): There are a number of trees around the edge of the site and a significant tree on adjacent land to the western boundary. The trees to the north and west are of high value, those to the south and east are of moderate value and those to the south and east form a screen to the proposed development. The trees should be retained and an Arboricultural Method Statement is required to show how the trees will be protected for the duration of the construction activity on site.

7.8. CDC ARBORICULTURE (response to amended scheme): The high category trees have been considered and are a suitable distance from the proposed development. The position of properties and associated hard standing should be considered in relation to the root protection areas and future conflict with buildings and gardens.

7.9. CDC RECREATION AND LEISURE: Contributions towards offsite outdoor sports and towards community halls are sought towards the Parish Council led project off Milton Road. A contribution is also sought towards offsite indoor sports towards the expansion of/ improvements to Spiceball Leisure Centre in Banbury.

7.10. CDC ENVIRONMENTAL PROTECTION (response to original scheme):

- Noise: A Construction Environment Management Plan would be required.
- Contaminated Land: The phase 1 report submitted states that a further intrusive investigation is required. Conditions should be used to secure this.
- Air Quality: A detailed air quality impact assessment should be submitted. In addition a condition to require ducting to allow for the future installation of electrical vehicle charging infrastructure should be included.
- Odour and Light: No comments

7.11. CDC ENVIRONMENTAL PROTECTION (response to amended scheme):

- Same response as recorded above.

7.12. CDC STRATEGIC HOUSING (response to original scheme): There is a requirement for 35% affordable housing units, 70% for social/ affordable rent and the remainder for shared ownership. Guidance is provided regarding the design, clustering, building and space standards, car parking levels and the need for agreement to be reached regarding the Registered Provider who would take on the units.

- 7.13. CDC STRATEGIC HOUSING (response to amended scheme): As required by Policy BSC3, 35% affordable housing should be provided. These should be split between 70% social rent units and 30% shared ownership units. This would best meet local needs which includes a need for smaller units as well as for rented units to be delivered at social rent level. Guidance is also provided regarding the design, clustering, building and space standards, car parking levels and the need for agreement to be reached regarding the Registered Provider who would take on the units.
- 7.14. CDC BUILDING CONTROL (response to original scheme): A Building Regulations application will be required. A site investigation report should be submitted to determine foundation design and presence of ground contamination, drainage design etc. Consultation with the Fire and Rescue service is advised for access and facilities for fire fighting vehicles.
- 7.15. CDC BUILDING CONTROL (response to amended scheme): No comments.
- 7.16. CDC WASTE AND RECYCLING: The developer will need to refer to the CDC Planning and Waste Management Design Advice regarding the minimum size needed per dwelling for storage of waste and recycling.
- 7.17. OCC HIGHWAYS (response to original scheme): Objection on the basis that the previously agreed access arrangement has not been submitted with the application. S106 contributions were listed and conditions recommended. Concerns were also raised with regard to the consistency of the information contained within the TS regarding general access arrangements. Otherwise, the key points as reported in response to the amended scheme were provided.
- 7.18. OCC HIGHWAYS (response to amended scheme): No objection subject to conditions and S106 obligations. The key points can be summarised as:
- The primary means of vehicular access is acceptable but the suggested reduction in speed limit to 30mph to cover the entirety of Berry Hill Road to the junction with the A4260 Oxford Road is necessary (subject to a TRO).
 - The proposed footway along the northern side of Berry Hill Road will be of benefit to residents of the existing properties along Berry Hill Road and the new crossing point with a pedestrian refuge to cross the A4260 is welcomed.
 - A pedestrian link should be provided between the western side of the site to Berry Hill Road to improve accessibility.
 - The two new bus stops proposed along the A4260 Oxford Road will improve the accessibility of the site by non-car modes and this is welcomed.
 - The analysis of accidents is considered still in date despite the fact that there have been known more recent fatal accidents on the local network from the time the survey was undertaken. This recent accident has been given due consideration.
 - Improvements to the public right of way is sought via a S106 contribution. Also welcomed is the integration of the site with the surrounding/ connecting green infrastructure network.
 - A travel plan may be required

- S106 contributions sought and justification for each is provided (this is expanded upon in the Officer appraisal. A set of planning conditions are also recommended.
- 7.19. OCC DRAINAGE (response to original scheme): Objection on the basis that insufficient evidence was provided to enable full technical drainage/ flooding/ SUDs assessment.
- 7.20. OCC DRAINAGE (response to amended scheme): Objection as previous comments relating to the proposal have not been adequately addressed and there still exists a lack of drainage, flood risk, SUDs information to enable a full technical assessment and audit of the proposal.
- 7.21. OCC DRAINAGE (response to additional information provided): No objection subject to conditions. Full detailed design is required but this can be sought through the imposition of planning conditions.
- 7.22. OCC EDUCATION (response to original scheme): No objection subject to S106 contributions towards nursery and primary and secondary school education. Justification for the requested contributions is provided.
- 7.23. OCC EDUCATION (response to amended scheme): The application would need to contribute towards the need for additional nursery, primary and secondary school places. The amendment in the scale of the application reduces the number of dwellings, and hence pupil generation and would result in changes to the level of contributions required. Revised contributions are set out.
- 7.24. OCC ARCHAEOLOGY (response to original scheme): No objection subject to conditions due to the site being in an area of archaeological interest.
- 7.25. HISTORIC ENGLAND (response to original scheme): Original advice to 17/02394/OUT still stands.
- 7.26. HISTORIC ENGLAND (response to amended scheme): Concerns regarding the application on heritage grounds:
- As set out in original comments, views of St. Mary's Church from surrounding public vantage points including roads and footpaths are an important part of the significance of the church. The church spire was designed to be seen from some distance in the landscape as well as at closer quarters. This visibility reflects the social importance of religion in the middle ages and the manner in which communities used the highly prominent architectural church spire to mark their presence in the landscape.
 - The indicative layout and supporting information for the reduced scheme for up to 40 dwellings acknowledges and establishes the importance of views of the church from Berry Hill Road which is welcome and it is acknowledged that allowing public access to the proposed green space to the north of the site would enable new, clear views of the church which would enable better appreciation of the building within the landscape.
 - The reduction in dwelling number and the amended layout do not fully address concerns regarding the application. The amended masterplan suggests one channelled view of the church from the access point to the western end of the proposed estate and along the road but the separation gap between dwellings appears too close to ensure that the views are clear. In addition, views are over landscaped areas or front gardens which could be

planted or filled with paraphernalia and provides little certainty of views being maintained over the long term. The Eastern side of the site displays fewer houses and greater scope for maintained views towards the church which is welcomed.

- The indicative layout shows adjustments which could result in improved views of the church from Berry Hill Road and that views from within the site could be enhanced. However, to minimise the harm to the significance of the church, the layout could be further improved to provide a sufficiently broad and permanent view from Berry Hill Road towards the church at the western end of the development.
- As further refinements are required to the layout of the scheme, Historic England remain of the opinion that the harm to St Mary's Church and the historic landscape is not justified because the outline scheme does not provide definitive information on the key matter of building layout and landscaping. The Council may be content that this can be handled through reserved matters.

7.27. THAMES VALLEY POLICE (response to original scheme): consider that there are some significant aspects of the design and layout to be problematic in crime prevention design terms and the design and access statement does not address crime and disorder. The concerns related to the excessive permeability of the layout, the number of parking courts and in relation to the design of public open spaces and play areas including the use of planting that reduce the surveillance of the play area. Further guidance regarding what a future scheme would need to consider is also provided.

7.28. THAMES VALLEY POLICE (response to amended scheme): Pleased to see the original layout has been revised and that the parking courts have been removed which is a significant improvement. Some of the perimeter blocks shown in the new layout are rather small, which creates unnecessary permeability and means for boundary treatments to private rear gardens are expose to the public realm which makes them more vulnerable to burglary attempts. Previous advice provided regarding the number of paths leading to the public right of way have not been addressed.

7.29. THAMES WATER:

- No objection with regard to foul water sewerage network infrastructure capacity.
- No objection with regard to surface water as the application indicates that surface water will not be discharged to the public network. If this changes, then further consideration will be required.
- TW have identified an inability of the existing water network infrastructure to accommodate the needs of this development. A condition should be imposed relating to this matter.

8. RELEVANT PLANNING POLICY AND GUIDANCE

8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

- 8.2. 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
- SLE4 – Improved Transport and Connections
- BSC1 – District Wide Housing Distribution
- BSC2 – The Effective and Efficient Use of Land
- BSC3 – Affordable Housing
- BSC4 – Housing Mix
- BSC8 – Securing Health and Wellbeing
- BSC9 – Public Services and Utilities
- BSC10 – Open Space, Outdoor Sport and Recreation Provision
- BSC11 – Local Standards of Provision – Outdoor Recreation
- BSC12 – Indoor Sport, Recreation and Community Facilities
- ESD1 – Mitigating and Adapting to Climate Change
- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD5 – Renewable Energy
- ESD6 – Sustainable Flood Risk Management
- ESD7 – Sustainable Drainage Systems
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 – Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment
- ESD17 – Green Infrastructure
- Policy Villages 1 – Village Categorisation
- Policy Villages 2 – Distributing Growth across the Rural Areas
- INF1 - Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18 – New Dwellings in the Countryside
- C8 – Sporadic development in the open countryside
- C27 – Development in Villages to respect historic settlement pattern
- C28 – Layout, design and external appearance of new development
- C30 – Design control
- C33 – Protection of important gaps of undeveloped land

- 8.3. Under Section 38 of the Planning and Compulsory Purchase Act 2004, a Neighbourhood Plan that has been approved at referendum also forms part of the statutory development plan for the area. In this case, the application site falls within the Adderbury Neighbourhood Plan area and the following Policies of the Neighbourhood Plan are considered relevant:

- AD1 – Adderbury Settlement Boundary
- AD2 – Green Infrastructure
- AD16 – Managing Design in Berry Hill Road and St. Mary’s Road

- 8.4. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- Cherwell Residential Design Guide SPD (July 2018)
- Housing and Economic Land Availability Assessment (February 2018)
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)

9. APPRAISAL

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

- Planning History
- Principle of development
- Landscape and Visual Impact
- Design and layout
- Heritage impact
- Housing mix/ affordable housing
- Residential amenity
- Transport and sustainability of the site
- Flood risk and drainage
- Trees, landscaping and open space
- Ecology impact
- Environmental matters
- Sustainability and energy efficiency
- Planning Obligations

Planning History

9.2. Section 4 above considers the planning history of the site which, in brief demonstrates that the Local Planning Authority (“LPA”) has been consistent in its approach to the consideration of development on the site. The 2006 application was also dismissed at appeal and the conclusions of the Inspector will be referred to where relevant in this appraisal.

9.3. The 2017 application (17/02394/OUT) was refused for 5 reasons as follows:

- 1 The development proposed, by reason of its scale and siting beyond the built up limits of the village, in open countryside and taking into account the number of dwellings already permitted in Adderbury as well as Cherwell District Council's ability to demonstrate an up-to-date five year housing land supply, is considered to be unnecessary, undesirable and unsustainable development which would undermine the housing strategy and prejudice a more balanced distribution of rural housing growth planned for in the Cherwell Local Plan Part 1. The site itself is in an unsustainable location on the edge of the village, distant from local services and facilities and would result in a development where future occupiers would be highly reliant on the private car for day to day needs. The proposal is therefore unacceptable in principle and contrary to Policies ESD1, SLE4 and Villages 2 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.
- 2 The development proposed, by virtue of its poorly integrated relationship with existing built development, its extension beyond the built limits of the village (beyond the Adderbury Settlement Boundary as defined in the Draft Adderbury Neighbourhood Plan Referendum version - 2014 - 2031) causing significant urbanisation and its visual impact on the rural character and appearance of the locality, would cause unacceptable harm to the character and appearance of the area and the rural setting of the village and would fail to reinforce local distinctiveness. It would also result in 'less than substantial' harm to the setting of the Church of St Mary and the harm stemming from the proposals are not considered to be outweighed by any public benefits. The proposal is therefore contrary to Policies ESD13, ESD15 and Villages 2 of the Cherwell Local Plan (2011-2031) Part 1, Saved Policies C8, C27, C28 and C33 of the Cherwell Local Plan 1996, Policy AD1 of the Draft Adderbury Neighbourhood Plan Referendum version - 2014 - 2031 and Government guidance contained within the National Planning Policy Framework.
- 3 The Design and Access Statement and indicative layout submitted as part of the application fails to provide sufficient acceptable detail in respect of the design principles set as a basis for the future detailed consideration of the development proposed. The Local Planning Authority is therefore unable to determine whether the development proposed could be satisfactorily accommodated on the site in a manner that would respect its context, enhance the built environment and properly respond to local distinctiveness. The proposal therefore fails to accord with the requirements of Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1, Saved Policies C27, C28 and C30 of the Cherwell Local Plan 1996 and Government guidance within the National Planning Policy Framework.
- 4 The submitted Drainage Strategy does not provide sufficient certainty to demonstrate that a drainage strategy based on Sustainable Urban Drainage Systems can be appropriately accommodated to deal with the sustainable discharge of surface water. The proposal is therefore contrary to Policy ESD7 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.

5 In the absence of the completion of a satisfactory Planning Obligation, the Local Planning Authority is not convinced that the necessary infrastructure directly required both on and off site as a result of this development, in the interests of safeguarding public infrastructure, mitigating highway safety concerns, delivering mixed and balanced communities by the provision of affordable housing and securing on site future maintenance arrangements will be provided. This would be contrary to Policy INF1, PSD1, BSC2, BSC9, BSC11 and ESD7 of the adopted Cherwell Local Plan (2011-2031) Part 1 and the advice within the National Planning Policy Framework.

9.4. The applicant withdrew their appeal related to the application refused by the Council in 2018 and submitted this application at the same time which originally sought permission for the same development refused (i.e. for 55 dwellings). However, the applicant wished to attempt to narrow down/ overcome the reasons for refusal and in light of this, amended their application down to be a scheme for 40 dwellings. It is this that is now for consideration and it is the amended scheme that will be considered through this appraisal.

Principle of Development

9.5. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

9.6. The Development Plan for Cherwell includes the Cherwell Local Plan 2011-2031 (adopted in July 2015), the saved policies of the Cherwell Local Plan 1996 and a number of adopted Neighbourhood Plans. Relevant to the consideration of this application is the Adderbury Neighbourhood Plan 2014-2031 ("ANP"), which was 'made' on the 16 July 2018 following a referendum held on the 21 June 2018. It therefore forms part of the Development Plan and is material in the consideration of planning applications in the Parish of Adderbury.

9.7. The site is not allocated for development in any adopted or emerging policy document forming part of the Development Plan and is not previously developed other than the current stables. The site sits outside the built-up limits of the village beyond the defined Adderbury Settlement Boundary as set out in the Adderbury Neighbourhood Plan 2014 – 2031.

Policy Context

The Development Plan

9.8. The Cherwell Local Plan 2011-2031 seeks to allocate sufficient land to meet District Wide Housing needs. The overall housing strategy is to focus housing growth at the towns of Banbury and Bicester and one strategic site (Heyford) outside of these towns. Policy ESD1 identifies that in mitigating the impact of development within the district on climate change, growth will be distributed to the most sustainable locations as defined in the Plan and to deliver development that seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce dependence on private cars.

9.9. The application site is outside the built up limits of Adderbury, and saved Policy H18 of the Cherwell Local Plan 1996 restricts development outside the built-up limits of settlements except in a number of circumstances; none of which are applicable to this current application. The proposals therefore conflict with Policy H18.

- 9.10. However, in recognising that there is a need within the rural areas to meet local and Cherwell wide housing needs, the Cherwell Local Plan 2011-2031 at Policy BSC1 allocates 2,350 homes for the 'Rest of the District'. Of these, 1,600 homes are allocated by Policy Villages 5 at Former RAF Upper Heyford leaving 750 homes identified for development elsewhere. Policy Villages 2 provides for these 750 homes to be delivered at Category A villages.
- 9.11. Category A villages are identified under Policy Villages 1 of the Cherwell Local Plan Part 1. Policy Villages 1 provides a categorisation of the District's villages to ensure that unplanned, small scale development within villages is directed towards those villages that are best able to accommodate limited growth. Category A villages are those identified as being the most sustainable in the hierarchy of villages in the District.
- 9.12. Adderbury is classified as a category A village by Policy Villages 1. The current proposal does not, however, comply with the type of development identified as being appropriate under Policy Villages 1 due to the site being outside the built up limits of the village (and outside the settlement boundary as defined by Policy AD1 of the ANP) and not representing minor development, being over 10 dwellings.
- 9.13. Policy Villages 2 identifies the Category A villages as being where planned development to meet District housing requirements to help meet local needs should be directed, subject to a detailed assessment as to the proportionate impact of development proposed upon the settlement in question (given the category A settlements vary in size and sustainability) and an assessment of the suitability of the specific site proposed. Policy Villages 2 is therefore the appropriate policy against which to assess this proposal.
- 9.14. The intention of this approach is to protect and enhance the services, facilities, landscapes and the natural and historic built environments of the villages and rural areas whilst recognising the need for some development. Policy Villages 2 advises that these sites would be identified through the preparation of the Local Plan Part 2, through the preparation of Neighbourhood Plans where applicable and through the determination of applications for planning permission. A number of criteria are listed and particular regard must be had to these criteria when considering sites, whether through plan making or the planning application process.
- 9.15. The ANP has been made since the previous application for development on this site was refused. It includes policies that are material to the consideration of this application forming part of the Development Plan. The key policy in respect to considering the principle of the development is Policy AD1, which allocates the Adderbury Settlement Boundary which is defined on the policies map. The policy states that *'development proposals will not be supported outside the Adderbury Settlement Boundary unless it is demonstrated they will enhance, or at least not harm, local landscape character. New isolated homes in the countryside will not be supported except in special circumstances described in paragraph 55 of the Framework. Proposals for the provision of affordable housing on rural exception sites immediately adjacent to the Adderbury Settlement Boundary will be supported where they meet an identified local need and relate well to the built form of the existing settlement'*.
- 9.16. There are no allocations for new housing sites through the ANP. In the supporting text to Policy AD1, reference is made to the scale of recently completed housing schemes and of the schemes that will be built out over the coming years and it explains that the District Council does not consider it desirable or necessary for any additional major contribution from Adderbury to meeting the needs of Local Plan Policy Villages 2 in the plan period by way of new greenfield development on the

edge of the village. The ANP does, however, confirm that in the event of the District's housing supply strategy having to change before the end of the plan period, then its implications will be considered by the Parish and District Councils and the ANP may be reviewed to plan for that eventuality.

- 9.17. In the Examiner's report of the Neighbourhood Plan, the Examiner, in respect of Policy AD1, concluded that the policy is in general conformity with the strategic Policies of the Adopted Cherwell Local Plan Part 1 and provides an additional level of detail or distinct local approach to that set out in the strategic policies. He also concluded that it seeks to shape and direct sustainable development to ensure that local people get the right type of development for their community. The Examiner did not require the Plan to allocate further sites for housing development and he also noted the number of new dwellings already permitted in Adderbury acknowledging that the contribution from these sites amounts to a significant boost to the supply of housing. He also noted that there was further potential for additional dwellings to be provided on infill plots or through the redevelopment of sites within the proposed settlement boundary as the Neighbourhood Plan does not place a limit on the number of homes that can be provided within the settlement boundary. On this issue, he concluded that Policy AD1 would not lead to the Neighbourhood Plan promoting less development than set out in the Local Plan.

National Policy

- 9.18. The National Planning Policy Framework confirms that there is a presumption in favour of sustainable development. For decision making this means approving proposals that accord with the development plan without delay. The Framework advises that there are three dimensions to Sustainable Development; economic, social and environmental. With regard to housing, the Framework supports the need to boost significantly the supply of housing to meet the full, objectively assessed need for housing. It requires LPAs to identify and update annually a supply of specific, deliverable sites sufficient to provide five years' worth of housing against the housing requirements, with an additional buffer of 5% to ensure choice and competition in the market for land. The Council's 2019 Annual Monitoring Report (AMR), which was approved by Members at the Executive meeting on the 6 January 2020 confirms that the District can demonstrate a 4.6 year housing land supply (for the current period 2019-2024) with a 5% buffer and a 4.4 year housing land supply for the next 5 year period (2020-2025).
- 9.19. In the circumstances that a LPA cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer), there is a presumption in favour of sustainable development and the circumstances at paragraph 11d of the NPPF are engaged. This sets out that the development plan's housing strategy policies must be considered to be out of date which means development should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 9.20. However, in respect of the Oxfordshire Authorities, there is a Written Ministerial Statement ("WMS") made in September 2018 concerning the Housing and Growth Deal which is a significant material consideration. The WMS grants the Oxfordshire Authorities flexibility on maintaining a five year housing land supply. This sets out the requirement for a three year supply of deliverable housing sites (with the appropriate buffer) from the date it was made (12/09/2018) until the adoption of the Joint Statutory Spatial Plan in each area, providing the timescales in the Housing and Growth Deal are adhered to.

9.21. In this case, it is clear that the tilted balance set out by Paragraph 11d is not engaged because the Housing Supply requirement for the District should be taken to be three years in accordance with the WMS (appeal decisions in South Oxfordshire have reached this conclusion). Any conflict with the ANP and whether it would significantly and demonstrably outweigh the benefits of the development will be considered through this appraisal, however it is clear that in this case, the three-year housing land supply position should be adopted.

Monitoring and recent appeal decisions

9.22. The Council's most recent AMR (December 2019) sets out that 953 dwellings have been identified for meeting the Policy Villages 2 requirement which are sites with either planning permission or a resolution to approve and are identified developable sites. This is made up of 582 dwellings either complete or under construction, 333 dwellings with planning permission and 38 dwellings that are considered developable (this 38 is made up of two sites – one with a resolution for approval and one for which the planning permission has lapsed).

9.23. Between 1 April 2014 and 31 March 2019, there were a total of 271 net housing completions. As reported above, there are a further 311 dwellings under construction, and it is reasonable to assume that these dwellings will be completed.

9.24. In recognition that not all sites will necessarily be developed or will not necessarily deliver the full number of dwellings granted, a 10% non-implementation rate has been applied to sites with permission but on which development has not yet started. This reduces the 333 dwellings reported in paragraph 9.16 to 300 dwellings. This would give the number of dwellings identified under Policy Villages 2 either complete, under construction, with planning permission or developable as 920 dwellings. There was also a further resolution for approval granted for a site at Fritwell at the December 2019 planning committee for 28 dwellings, which would also be additional to the 920 dwellings.

9.25. Five appeal decisions have been received over the past year which have considered the application of Policy Villages 2. These are for sites at Launton, Ambrosden, Bodicote, Sibford Ferris and Weston on the Green. The first four were allowed, and the numbers approved at those four sites are included within the figures reported in the December 2019. The key conclusions resulting from the Launton, Bodicote and Sibford Ferris appeals can be summarised as:

- The Policy Villages 2 number of 750 dwellings has not been 'delivered' yet.
- The number of 750 has development management significance in terms of the Local Plan strategy.
- Not all dwellings approved might be delivered (hence the Council's inclusion of a 10% non-implementation rate in the most recent AMR)
- The number of dwellings proposed must be considered as to whether that number would undermine the strategy of the Local Plan
- There is no spatial strategy to the distribution of the 750 houses allocated in the rural areas under Policy Villages 2 beyond distribution to the Category A villages.
- Assessment of the sustainability of the settlement in question is required, and indeed this has been a primary consideration in all of the appeals relating to major housing development at Category A villages, with appeals

at Finmere, Fringford and Weston on the Green having been dismissed, in each case the sustainability of the settlement being a key issue.

Assessment

- 9.26. Adderbury is one of the largest category A villages in the District in terms of size and it is one of the more sustainable in terms of the range of facilities it provides as well as the transport connections available. The village has been subject to a number of large developments approved since 31 March 2014 (3 sites for 120 dwellings); however, a further 65 dwellings were approved in January 2014 giving an overall total of 185 dwellings in the village either under construction or recently completed. The 120 dwellings approved under Policy Villages 2 (i.e. since 31 March 2014) represents 16% of the 750 dwellings and it is for this reason that the Adderbury Neighbourhood Plan does not allocate a further site for development at the village.
- 9.27. The 750 dwellings allocated by Policy Villages 2 have not yet been delivered, and it is acknowledged that in any event this number cannot be considered a ceiling. However, the number does have significance in terms of the spatial strategy of the Local Plan in directing the majority of growth to the towns of Banbury and Bicester whilst limiting growth in the rural areas. There will come a point at which harm will have been caused e.g. through a material exceedance of 750 dwellings delivered under Policy Villages 2, acknowledging that the pipeline of permissions as noted at para 9.24 will, in practice mean a significant exceedance. Whilst Inspectors have confirmed that Policy Villages 2 does not provide a spatial strategy for the distribution of the 750 dwellings allocated at Category A villages, the policy applies to all 24 villages identified by Policy Villages 1 and concentrating a large proportion of the number of new dwellings in a few larger villages would conflict with the spatial strategy of the Local Plan as a whole, which seeks to ensure a sustainable, planned and balanced approach to the distribution of housing in the rural areas.
- 9.28. As has been concluded, the Policies in the Neighbourhood Plan and the Development Plan for the supply of housing can be considered up to date. The provision of 40 additional dwellings in Adderbury would conflict with the spatial strategy for the provision of dwellings in the rural areas given that the village has already accommodated a large proportion of the overall 750 dwellings (16%) (albeit of the 920 dwellings reported in the AMR, the percentage would be 13%) and no further need for development in the village has been identified through the recently adopted Neighbourhood Plan.
- 9.29. Regardless of the conclusion reached in respect of the number of dwellings allocated by Policy Villages 2, Officers consider that the impact of a residential development on this site as will be assessed in detail in the later appraisal means that the site is unacceptable in principle.
- 9.30. It is now necessary to consider those wider impacts of the development against the relevant policies of the Adderbury Neighbourhood Plan and the eleven criteria of Policy Villages 2 and other relevant policies of the Cherwell Local Plan Part 1. The conclusions as to whether the site is suitable, sustainable and acceptable in terms of its wider impacts should be balanced against the need for such development in the circumstances that the District can currently demonstrate over a 3 year housing land supply, the level of development Adderbury has already accommodated and the weight to be attached to the relevant policies of the Development Plan.

Landscape and Visual Impact

Policy Context

- 9.31. Policy ESD13 of the Cherwell Local Plan advises that development will be expected to respect and enhance local landscape character and a number of criteria are highlighted including that development is expected not to cause visual intrusion into the open countryside, must be consistent with local character and must not harm the setting of settlements, buildings or structures. Policy Villages 2 requires that consideration be given to whether significant landscape impacts could be avoided and whether development would contribute in enhancing the built environment.
- 9.32. Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context. Policy C8 seeks to limit sporadic development beyond the built limits of settlements. Policy C27 expects that development proposals in villages will respect their historic settlement pattern.
- 9.33. As referred to above, Policy AD1 of the Adderbury Neighbourhood Plan – 2014 – 2031 provides for a settlement boundary, outside of which development will not be supported unless it is demonstrated that it will enhance or at least not harm, local landscape character. The supporting statement to Policy AD1 confirms that in respect of proposals located outside the boundary, the policy is to operate alongside Local Plan Policy ESD13 to ensure that they are compatible with the objective of that policy of protecting and enhancing the local landscape.
- 9.34. The NPPF highlights that the protection and enhancement of the natural, built and historic environment is part of the environmental role of sustainable development and one of the core planning principles also refers to recognising the intrinsic character and beauty of the countryside. The NPPF also emphasises the importance of development responding to character and history with good design being a key aspect of sustainable development.
- 9.35. The site has been considered through the Council's Housing and Economic Land Availability Assessment (February 2018). This concluded that the site is not suitable for development as *'The site adjoins the built-up limits of the village however the site is remote from the services and facilities. The site is considered to be unsuitable and there is a low density and linear development form on the northern side of the road at this gateway to the village. More intensive development in this location would be detrimental to the character of the village and represent a significant intrusion into the countryside (harming its character and appearance). Development would harm the setting of the church. The topography of the north western part of the site also makes development challenging'*.
- 9.36. In addition, and as referred to above, there has been a previous appeal on this site, which dismissed a scheme for residential development (06/00712/OUT). This was a smaller scheme, but the Appeal Inspector's conclusions in respect to the site and its character are material to the consideration of this application. In particular, the Inspector concluded that the appeal site represents a particularly pleasant part of the open countryside and which makes a significant contribution to the character and appearance of this part of Adderbury. It was also identified that the appeal site allows an attractive view of the village church. The development proposed was found to be harmful to the character and appearance of the area and would result in an unsustainable development.
- 9.37. The application sits within the Oxfordshire Landscape Type 'Upstanding Village Farmlands', which is characterised by its undulating landform, well defined geometric pattern of medium sized fields enclosed by prominent hedgerows and with a strong settlement pattern of compact, nucleated villages of varying sizes with little dispersal in the wider countryside.

Assessment

- 9.38. In its amended, reduced form, the area proposed for built development is a reduced area provided to the south of the site with the northern land retained as public open space. The buildings would also be retained to the west of the access route rather than on both sides. A revised addendum LVA is provided with the amended proposal scheme. The LVA addendum confirms that the conclusions of the original LVA addendum remain valid and that the significance of the landscape effects is not changed as not significant impacts overall other than to two viewpoints where a greater impact would be felt by users of public footpaths.
- 9.39. The LVA has been reviewed by the Council's Landscape Officer who continues to raise some concern regarding the landscape effects and continues to consider the development to be unsuitable. Nevertheless, it is agreed that the wider landscape impacts would be limited but that there would be localised impacts, which should be considered further.
- 9.40. The main core of Adderbury is to the north of the application site and, as explained in the Adderbury Conservation Area Appraisal, the historic character of the village has an east-west axis with a strong linear structure defined by strong building lines. It describes that the series of linear streets are linked by winding lanes. Berry Hill Road runs to the south of the application site, with residential properties fronting it and which sit directly to the west of the application site. The properties on either side of Berry Hill Road are predominately large detached units, set back from the roadside, with wide verges giving a low density, linear, ribbon form of development.
- 9.41. The site itself sits adjacent to 'Last House' at the eastern end of Berry Hill Road. The land is greenfield and other than a small area of stabling, it is open and retains a strong rural character. The site is visually part of the open countryside and is an important open space at the edge of the village in contributing to the rural setting of the village as was identified by the Inspector who dismissed the appeal in 2007 for development on the site. A number of public rights of way run within proximity of the site and clear views of the site can be gained by users who would appreciate the rural setting of the village.
- 9.42. The proposed development would involve a large-scale development on the land. The indicative layout demonstrates dwellings fronting towards Berry Hill Road (albeit set behind the existing hedgerow) with the remaining proposed dwellings arranged extending northwards on the site. The proposal is in a reduced form to that previously considered and refused but it remains a block of development resulting in a large cul de sac which is distinctly different to the prevailing pattern of development along Berry Hill Road. The northern most part of the site and a strip to the east of the proposed access road are proposed to remain open and be left undeveloped as public open space. The development would be accessed by a formal access road positioned at the existing access point which would loop round to provide access to all proposed dwellings. The supporting information suggests that the retention of the existing boundary hedgerows would allow the development to be accommodated without causing unacceptable impacts. The southern hedgerow is not substantial and allows views through onto the land and views towards the village beyond. It also finds that *'the surrounding vegetation on three sides as well as the woodland and hedgerows, including that along the elevated former railway, provide substantial separation of the site from its context, and in particular the village of Adderbury'*. The recognition in the LVA as to substantial separation is acknowledged and agreed; this emphasises Officer concerns as to the unsuitability of the site in terms of its impact upon the character of the locality.

9.43. The site is considered to be an important part of the open countryside and was acknowledged by the previous Planning Inspector in 2007. Development on the site would result in the loss of this rural character (which continues along Berry Hill Road given the low density of development and its spacious character) and change the setting of the village extending development towards the A4260. Any development on the site would intrude into the open countryside and be harmful to the rural setting of the village. Development would conflict with the settlement pattern in this part of Adderbury with this being a bolt on estate, which would conflict with the linear arrangement of dwellings along Berry Hill Road. In the previous appeal decision on the site (06/00712/OUT), which proposed a linear row of dwellings and then two rows of houses perpendicular to the road, the Inspector identified that the proposal would have an orientation unlike any other development within the area. It was concluded that such an arrangement would be at odds with the prevailing development pattern. The current proposal is a significantly more in-depth development than the 2007 appeal scheme. The urban form proposed would not therefore integrate into the existing settlement pattern and would represent a significant intrusion into the countryside. It would result in significant urbanisation and be prominent in views from Berry Hill Road and from nearby public rights of way. Whilst the Landscape Strategy in the LVIA identifies the retention and enhancement of the site boundaries, this would aid in screening development behind a tree belt. This is not considered to be sufficient to overcome unacceptable development and in itself, would further emphasise the difference between the application site and the rest of the development along Berry Hill Road, which is not set behind a screen.

Conclusion

9.44. The proposed development would result in a significant urbanisation of an important open rural field adjacent to the edge of Adderbury, visually intruding into the landscape and which would be harmful to the localised landscape, character and rural setting of the village. It would also conflict with the local prevailing settlement pattern. Given the conclusion reached, the proposed development would conflict with Policy AD1 of the Adderbury Neighbourhood Plan 2014 – 2031, Policies ESD13 and Villages 2 of the Cherwell Local Plan Part 1, Policies C8, C27 and C28 of the Cherwell Local Plan 1996 and advice in the NPPF which seeks to protect the intrinsic character of the countryside.

Design and Layout

Policy Context

9.45. Policy ESD15 provides guidance as to the assessment of development and its impact upon the character of the built and historic environment. It seeks to secure development that would complement and enhance the character of its context through sensitive siting, layout and high quality design meeting high design standards and complementing any nearby heritage assets. The National Planning Policy Framework is clear that good design is a key aspect of sustainable development.

Assessment

9.46. The application is in outline with all matters reserved except for access. The application is accompanied by an indicative layout and a design and access statement (DAS). It is expected that an indicative layout and DAS would demonstrate that the development proposed can be appropriately accommodated and which sets appropriate design principles so that future detailed proposals that meet high design standards can be achieved.

- 9.47. The submitted DAS is the same as that submitted pursuant to the originally refused scheme. In respect of that, Officers acknowledged that whilst the DAS sets some appropriate overarching principles, its basis for future proposals was to take reference from the nearby modern development. Concern was raised taking into account guidance in the Council's Residential Design Guide which seeks to ensure that new development responds to the traditional settlement pattern and character of a village. This includes the use of continuous building forms along principle routes and adjacent to areas of the public open space, the use of traditional building materials and detailing and form that respond to the local vernacular.
- 9.48. The submitted heritage assessment identifies that in the Adderbury Conservation Area, there is a limited palette of building materials, and the use of local ironstone for many buildings creates a sense of architectural and visual harmony within the conservation area. It also identifies the strong linear structure of the village.
- 9.49. The indicative layout has reduced the level of development proposed to 40 dwellings. This indicates a greater number of linked dwellings and has attempted to demonstrate some vernacular detailing; however, it does remain the case that the proposal represents a suburban form of development that appears as a bolt on cul de sac on the edge of the village which conflicts with the settlement pattern in this area of the village. This issue further demonstrates that the site is unsuitable for development of the form proposed in principle due to the impact upon local character and the setting of the village as it is difficult to see in what alternative form 40 dwellings could be accommodated on the site.
- 9.50. In relation to the previous proposal, Officers considered that the submitted information in the DAS and the indicative layout would not provide sufficient certainty or an acceptable basis to enable a future detailed scheme to be achieved. This led to a detailed reason for refusal being recommended, which related to this matter. Whilst there are some concerns still present including the position of the play area which is not incorporated into the development so that it is overlooked, the layout of roads that create short cul de sacs which reduce the legibility of the site and the indication of certain design features, it is considered that these matters are detailed matters which could be negotiated at a later stage if a reserved matters application were to be made (i.e. if the site benefitted from outline permission).
- 9.51. A parameter plan has been discussed with the applicant, which demonstrates vistas that would need to be created to enable views to the listed building (to be discussed below). It would be important for this plan to be conditioned approved should the application be considered acceptable to set a basis for the future negotiation of detailed proposals.
- 9.52. Access is a matter for approval as part of this application. The site access is proposed to the eastern side of the southern boundary of the site in the same position as the access to the current stable uses. Officers have some concern that this position is distant from the current edge of the village which further emphasises the impact of urbanisation by development being positioned on this land. It is also questioned whether an appropriate frontage to the development could be achieved taking into account the current indicative layout.

Conclusion

- 9.53. As explained, the nature of a development for 40 dwellings in this location is considered to be unacceptable in principle in respect to the impact upon settlement pattern and character of the village and its rural setting. Officers are not convinced that a future scheme of this scale could be appropriately accommodated that is both

locally distinctive and in keeping with the character of this area of the village or that would enhance the built environment. The indicative layout reinforces this view.

- 9.54. Nevertheless, this concern relates to the principle of a development of this scale in this particular location taking into account the localised impact and settlement pattern. If a development of this scale were accepted on this site in principle, then detailed concerns Officers hold in respect to specific matters such as house types and layout, road layouts and house type detailing could be matters that are negotiated through a reserved matters scheme. On this basis, Officers have not recommended that previous reason for refusal 3 be re-imposed as concerns relating to the principle of development on the site and its impact upon local character, landscape, the setting of the village and the local settlement pattern are covered by recommended reasons for refusal one and two.
- 9.55. Officers consider that the proposal conflicts with Policies ESD15 and Villages 2 of the Cherwell Local Plan Part 1, Saved Policies C27, C28 and C30 of the adopted Cherwell Local Plan 1996 and Government Guidance in the NPPF.

Heritage Impact

Legislative and Policy Context

- 9.56. Section 16 of the NPPF sets out Planning Guidance relating to the historic environment including archaeology. The development would be expected to preserve the significance of designated heritage assets within proximity. It is also provided at paragraph 192 that Local Planning Authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness. The NPPF sets out the tests to be applied where harm to heritage assets is identified.
- 9.57. Policy ESD15 of the Cherwell Local Plan 2011-2031 also refers to heritage assets expecting development to conserve, sustain and enhance designated and non-designated heritage assets. One of the criteria of Policy Villages 2 requires consideration as to whether development would avoid significant adverse impact on heritage. Policy C33 of the Cherwell Local Plan 1996 states that the Council will seek to retain any undeveloped gap of land which is important in preserving the character of a loose knit settlement structure or in maintaining the proper setting for a listed building or in preserving a view or feature of recognised amenity or historical value.
- 9.58. In addition, there is a legal requirement, under S66 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 for a Local Planning Authority to have regard to the desirability of preserving a listed building or its setting. S72 of the same Act requires that within a conservation area, the development of land or buildings shall preserve or enhance the character and appearance of that area.

Assessment

- 9.59. The site is not within the conservation area and there are no heritage assets on the site itself. The Adderbury Conservation Area sits to the north and west of the site. Adderbury also has a number of listed buildings and most of these are too far away from the site to be impacted. However, the Grade I listed Church of St Mary is to the north of the site and there are views from the south towards the church both from the site and the surrounding road and footpath networks. In the previous appeal on the site (06/00712/OUT), the Inspector identified that the appeal site allows an

attractive view of the village church and it was concluded that the siting of the proposed dwellings would result in the loss of an important view towards the church.

- 9.60. The application is accompanied by a Heritage Statement which concludes that the site does not make a contribution to the significance of the listed church as the site has no historic or visual relationship with the asset and whilst there are views of the church spire, these are not clearly visible from Berry Hill Road as the substantial boundary distorts the view. Indeed, it is considered that the views of the church from the south would be improved as the provision of open space with a play area would provide access to views of the church and its spire which are not currently accessible to members of the public. With regard to the conservation area, the assessment does not identify any unacceptable impacts.
- 9.61. There are views available from Berry Hill Road towards the village and the spire of the Church of St Mary. Historic England continue to advise that views of the Church of St Mary from surrounding public vantage points, including roads and footpaths, are an important part of the significance of the church as a historic landscape feature. The church spire was designed to be seen from some distance in the landscape as well as at closer quarters. This visibility reflects the social importance of religion in the middle ages and the manner in which communities used the highly prominent architectural church spire to mark their presence in the landscape.
- 9.62. Development on the site would, by its nature, obscure and change the rural setting of views of the church from the south and Berry Hill Road. This would cause harm albeit less than substantial harm. The NPPF requires that where less than substantial harm is identified to the significance of a designated heritage asset, that this harm should be weighed against the public benefits of the proposal.
- 9.63. In addition to the Heritage Statement, a plan is provided demonstrating how long views to the Church of St Mary from Berry Hill Road could be provided as well as the achievement of new, publicly accessible views from the proposed area of open space. A parameter plan has also been discussed with the applicant which is provided, to ensure that the views proposed to be created would be a clear parameter should outline permission be granted. Whilst Historic England welcome the establishment of views of the church, they do raise concern regarding the likely separation gap between dwellings (which on the indicative plan appears too close to ensure that the views are clear) and that views over landscaped areas or front gardens could be planted with trees or filled with paraphernalia such that it is uncertain that views in the long term would be maintained. It is accepted by Historic England that the reduced scheme has lessened the impact to a degree, particularly due to the proposal not to include residential development to the east of the access road.
- 9.64. The detailed concerns of Historic England are based upon an indicative plan and therefore are matters that could be negotiated at the reserved matters stage (and they provide some recommendations that could also be taken into account such as the need for the layout to be improved to provide a sufficiently broad and permanent view towards the church at the western end of the development).
- 9.65. Whilst the negotiation of a detailed scheme could improve and allow for views through the development towards the church and provide open space for more publicly accessible views to be gained, this does not overcome the overriding concern that the rural setting of the church from the south would be interrupted and that the new views to be created would be funnelled through a housing development rather than across a rural field towards the village and the church. Given the concerns raised by Officers relating to the impact of the development upon the local landscape and character of the village as well as there not being an overriding need

for such a development, it is considered that there are not public benefits that would outweigh the harm to the setting of the listed building and that its setting would not therefore be preserved.

- 9.66. The application proposes to provide a footway west along Berry Hill Road to link into the village network close to the junction with Horn Hill Road. There has been some concern raised that this proposal would be harmful to the character of the conservation area in this location and to the setting of nearby listed buildings due to the urbanisation this would involve. An application from 2015 for development of 5 houses to the south of Little Shotover and East of Cherry Cottage on Horn Hill Road (15/01384/OUT), concluded in the Officer report that the change in order to access that site would have a detrimental urbanising impact on the rural character and appearance of this area of the village which is recognised as an important green space and as a gateway to the historic village in the conservation area appraisal. In dismissing a planning appeal for this scheme, the Inspector identified the change in the informal rural character of the access and its likely increased prominence which was found to be detrimental to the character and appearance of the conservation area at this important gateway. In this case, it is possible that should development have been concluded to be acceptable on this site, the position of the footway could have been negotiated in respect of its position and how it connects into the surrounding highway network or, if there were no alternative, whether there would be a more sympathetic finish available that could maintain character. As such, whilst the concern is noted and Officers agree that in its current form there would be some detrimental impact to this part of the conservation area, this matter does not warrant its own reason for refusal as it is a matter that could be negotiated as to an appropriate alternative.
- 9.67. The County Archaeologist has provided a response to this application which differs from that to the previous application. The advice now is that the site has archaeological potential and as such, conditions are recommended to require further archaeological work to be completed prior to development commencing. This changed response is due to new information that has been added to the Historic Environment Record. New aerial photographic survey data has identified a large circular enclosure within the proposed development area which is likely to be prehistoric in date and has only just become known about. As such, archaeology is now a constraint but it is a matter that could be dealt with via the imposition of conditions if the application were recommended for approval.

Conclusion

- 9.68. Based upon the assessment above, Officers consider that there would be harm to the setting of the grade I listed Church of St Mary as a heritage asset. Whilst the current scheme, compared to that previously refused has been reduced to a degree, there would still remain harm. This harm is less than substantial but would not be outweighed by a public benefit. The proposal would therefore not preserve or enhance the setting of the designated heritage asset and the land is an important undeveloped gap in maintaining the proper rural setting for the listed building. As such, the proposal would conflict with Policies ESD15 and Villages 2 of the Cherwell Local Plan Part 1, Saved Policy C33 of the Cherwell Local Plan 1996 and Government Guidance in the NPPF.

Housing Mix/ Affordable Housing

- 9.69. The NPPF advises that in order to create sustainable, inclusive and mixed communities, Local Planning Authorities should plan for a mix of housing, reflect local demand and set policies for meeting affordable housing need. Policy BSC4 of the Local Plan requires new residential development to provide a mix of homes in

the interests of meeting housing need and creating socially mixed and inclusive communities. Policy BSC3 requires development within locations such as at Adderbury to provide 35% affordable housing on site and provides detail on the mix that should be sought between affordable/ social rent and shared ownership.

- 9.70. The applicant has carried out some work through the processing of the application to propose a mix for the market dwellings. Their proposed mix has taken into account the Oxfordshire SHMA findings, reported in the preamble to Policy BSC3 with a predominant mix in favour of three bedroomed homes. This, they consider demonstrates a commitment to providing the mix of housing that is required in the District with an over-provision of moderately sized family homes representing a benefit that weighs heavily in favour of the development. They have then carried out further work to compare their proposed mix with other recent developments in the village. From this, it is concluded that other approvals in Adderbury have not responded positively to the identified SHMA mix and have therefore not adequately addressed the need for moderately sized homes, which should add further weight in favour of this proposal.
- 9.71. In respect to affordable housing, the applicant proposes 35% affordable housing in line with the requirements of Policy BSC3 and has proposed a mix. The Strategic Housing team usually specify a mix that they consider would best meet local need. In this case, the requested mix includes the required rental properties to be for social rent, for which there is a high need in the District due to reasons of affordability. The applicant has agreed to the rental units being social rented units.
- 9.72. The proposal to include market and affordable housing and to include a mix of unit sizes which respond positively to the required sizes of housing within the District, evidence for which is set out in the Oxfordshire SHMA is a benefit of the proposal. Affordable rent properties as social rented units is also a benefit that carries some weight in favour of the development as it contributes towards the socially sustainable nature of the site. However, that weight can only be attributed moderate weight in the planning balance because the proposal meets the requirements of planning policy. Whilst the scheme could provide a more appropriate mix than other developments have, this matter would have to be weighed in the overall planning balance against the identified harms.

Effect on Neighbour amenity

- 9.73. Policy ESD15 advises of the need for new development to consider the amenity of both existing and future development and this reflects the Core Principle of the Framework, which confirms the need for a good standard of amenity for all existing and future occupants of land and buildings to be secured.
- 9.74. Given the land adjoins only one dwelling (Last House) on Berry Hill Road, care would be required in the future design of a scheme in order to ensure that the residential amenity of this property would not be harmed. Given the size of the site, it is highly likely that a scheme could be accommodated without causing undue harm to the amenity of this property and any others that might be impacted.

Highway safety and sustainability of the site

Policy Context

- 9.75. The National Planning Policy Framework is clear that transport policies have an important role to play in facilitating sustainable development with encouragement provided to sustainable modes of transport to reduce reliance on the private car. It is also clear that applications should be accompanied by a Transport statement if it

would generate significant amounts of movement. This is reflected in Policy SLE4 of the Local Plan. Policy SLE4 and Villages 2, both emphasise the need for consideration to be given to whether safe and suitable access can be achieved.

Assessment

- 9.76. The application is accompanied by a Transport Statement and an addendum has been prepared to respond to the amended scheme of 40 dwellings. The Highway Authority have raised no objections to the proposed development on key matters such as the main access arrangements (vehicular and pedestrian/ cycle) and the proposal to include new bus stops on the A4260. No concerns are raised with regard to transport movements and their impact upon the local highway network.
- 9.77. Detailed matters raised by the Local Highway Authority (LHA) could be controlled and secured by planning condition/ S106 agreement as necessary. This includes the provision of a link at the western side of the southern boundary of the site (which is indicated on the provided parameter plan and the indicative masterplan) and the securing of footway links to the west and east along Berry Hill Road and highway improvements, including the provision of bus stops on the A4260 (the width of the proposed footway on Berry Hill Road is currently being queried as a narrower route is proposed to respond to the Parish Council's request but this has not yet been agreed by the LHA). In addition, requirements around the main point of access as well as the imposition of conditions and other S106 requirements (seeking contributions towards other matters such as improvements to rights of way which will be explained below), could also be secured.
- 9.78. The provision of new links would be important in encouraging the use of sustainable modes of transport. The site is relatively distant from the core of the village where the facilities and services are provided. The LHA has not raised any such concern of this nature but Officers agree with the Inspector for 06/00712/OUT that the site is poorly located and would therefore lead to an increase in car borne commuting even with the proposed transport improvements to increase pedestrian/ cycle accessibility. This would compromise the principles of sustainable development. The LHA has sought contributions towards transport improvements and these would have been pursued should this site have been recommended for approval.
- 9.79. There are a number of public rights of way that run within proximity and within the site. It is not expected that these would be adversely impacted providing they are protected during construction and the LHA has sought contributions for their improvement.

Conclusion

- 9.80. Whilst technical highway safety matters have been addressed such that the site can be safely accessed and its development would not result in a severe impact upon the highway network, the development site is not considered to be well-located to services and facilities. This would compromise the principles of sustainable development. There would therefore be conflict with Government guidance in the NPPF and Policies Villages 2 and SLE4 of the Cherwell Local Plan Part 1 in this regard.

Flood Risk and Drainage

- 9.81. A flood risk assessment and drainage management strategy is submitted with the application in line with the requirements of Policy ESD6 of the Local Plan and the Framework, given the site extends to over 1ha in area and is predominantly in Flood Zone 1. Policy ESD7 of the Local Plan requires the use of Sustainable Urban

Drainage Systems to manage surface water drainage systems. This is all with the aim to manage and reduce flood risk in the District.

- 9.82. Following the receipt of an objection to the original submission (which was unsurprising given the submitted information was the same as that received for the previously refused scheme for which an objection by OCC was made which resulted in reason for refusal 4), further discussion was undertaken directly between the applicant's Drainage Consultant and OCC resulting in an amended Drainage Strategy being submitted dated November 2019.
- 9.83. This has confirmed that infiltration testing has confirmed that the site is suitable for infiltration drainage techniques and that on this basis, the drainage layout will include soakaways for each house, permeable surfacing, and the inclusion of swales and a basin to intercept overland flows in extreme events. OCC have considered this and confirmed that they raise no objections subject to the imposition of conditions to ensure full detailed designs are provided.
- 9.84. On the basis that the FRA concludes that the site is unlikely to be affected by flood risk and that development could therefore be appropriately accommodated without raising the risk of flooding and that OCC are now satisfied that a suitable drainage solution can be achieved as testing has confirmed that infiltration drainage techniques are achievable, it is considered that there is no reason to re-impose reason for refusal 4. It is considered that the applicant has satisfactorily addressed this reason for refusal and that a suitable drainage arrangement could be achieved.

Trees, Landscaping and Open Space

- 9.85. Policy ESD10 of the Local Plan refers to the protection and enhancement of ecology and the natural environment. It requires the protection of trees amongst other ecological requirements. Policy ESD13 also encourages the protection of trees and retention of landscape features. Policy BSC11 sets out the Council's requirements for local outdoor space provision and play space.
- 9.86. In respect of the existing trees and hedgerows, these form the field boundaries of the site. An Arboricultural report has been submitted with the application and this concluded that no significant trees would require removal to facilitate the new access arrangement. Otherwise, the report suggests the need for management and enhancement of the southern hedgerow to improve the hedgerows quality and long term value. The report also identifies the root protection area of trees and has not identified any indirect negative impacts to trees by way of providing the development proposed. The report identifies the need for tree protection and an Arboricultural Method Statement.
- 9.87. The Arboricultural report also advises that the site provides an opportunity to undertake new tree planting throughout the site as part of a soft landscaping scheme. Landscaping is a matter reserved for later approval, however it is clear to see how this can be achieved as the whole of the northern part of the site is set aside as public open space. The incorporation of street trees within the built up area would need careful consideration given the need for views towards the listed church to be provided.
- 9.88. Policy BSC11 requires the provision of approximately 0.26ha of open space for a development of the scale proposed. The site provides a large area of open space to the north which would significantly exceed this requirement. The applicant has looked at the Council's Open Space studies and has noted that this demonstrates a shortfall in green spaces and play areas across the rural north of the District. It is their view that on this basis, the overprovision of green space on their site should

attract weight in favour of the development. This is particularly on the basis that it will enhance the green infrastructure network, would provide a children's play area, would provide seating facing north to create a space with views towards the Church and provide enhancements to the public right of way network. A discussion has been requested with the Landscape Officer regarding the composition of the open space to ensure that it responds as positively as it can to the identified shortfall.

- 9.89. The provision of a large area of open space is beneficial. Its contribution towards general green/ amenity space provision is noted, however in this case, the reason this area has been left aside rather than proposed for development is due to site constraints (i.e. topography) and the need to provide areas for sustainable drainage. The overprovision of open space, whilst carrying some weight in favour of the development is not considered to override the unacceptable impacts of the development in this case. The provision of open space is a normal requirement related to development and, whilst there are some benefits to this, this attracts minor weight in the planning balance.
- 9.90. Policy AD2 of the Adderbury Neighbourhood Plan provides for a Green Infrastructure Network around and within the village. This comprises a variety of green infrastructure assets including amongst others, footpaths and bridleways. The policies maps identify the public rights of way to the east and north of the site as sitting within the green infrastructure network. The policy requires that the value and integrity of the network is maintained and enhanced. It is accepted that this proposal would comply with Policy AD2 by maintaining the existing routes, contributing to their enhancement and by the provision of open space adjacent to (albeit changing that from farmland, which in itself is not harming those routes).
- 9.91. In respect of play space, the site is required to provide a Local Area of Play as required by Policy BSC11 now that the proposal is for only 40 dwellings. This is currently shown within the area of open space but the location has been raised as a concern by the Landscape Officer. As the layout provided is indicative only, the play facility can be changed in the future as it is not fixed (other than by way of the proposed parameter plan), albeit if it were moved into the area of the site shown for built development, then this may impact upon the number of units that could be provided.
- 9.92. The site does not exceed the threshold for the onsite provision of formal outdoor sports facilities or for allotments. There is a requirement for contributions towards offsite sports facilities.

Ecology Impact

Legislative context

- 9.93. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.
- 9.94. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.

- 9.95. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.
- 9.96. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:
- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
 - (2) That there is no satisfactory alternative.
 - (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.
- 9.97. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipe-lines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

Policy Context

- 9.98. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 9.99. Paragraph 175 states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 9.100. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst

others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

- 9.101. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.102. Policy ESD11 is concerned with Conservation Target Areas (CTAs), and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.
- 9.103. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.104. The Planning Practice Guidance dated 2014 post dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Assessment

- 9.105. In this case, an Ecological Appraisal and Biodiversity Impact Assessment has been carried out, with an updated walkover of the site in 2019. The site comprises largely semi improved and improved grassland which will largely be lost under the proposals with a couple of additional habitats proposed to be created. The reports also identified that the site has some ecological value for amphibians, bats and birds and identifies mitigation requirements including the need for updated survey work.
- 9.106. The Council's Ecologist has confirmed that the surveys carried out to date are fine and should permission be granted; additional survey work would be required in certain conditions as set out in the Ecological Appraisal. This could be conditioned to ensure the necessary safeguards and mitigation measures are carried out.
- 9.107. The Biodiversity Impact Assessment has demonstrated that a net gain for biodiversity could be achieved of around 4% with the current proposed layout but this is reliant on some of the semi-improved grassland being fenced off to achieve a moderate condition. Other amenity grassland would not necessarily be fenced off and so its condition is queried. In any event, the Council's Ecologist considers that a greater level of net gain needs to be achieved including to seek a minimum of 10% in biodiversity net gain as has been agreed by the Council's Executive and that offsetting should not be ruled out. Either way, the achievement of net gain needs to be balanced against other matters, including the provision of useable open space. In this case it is not considered necessary to include a reason for refusal relating to the lack of achievement of a net gain for biodiversity because Policy ESD10 does not set a required level and the applicant has demonstrated that a net gain can be achieved. In addition, it is possible that a greater net gain than 4% could be achieved if a detailed scheme were being considered.

9.108. Biodiversity enhancements are suggested for the site within the Ecological Appraisal and a planning condition could be used to secure a scheme for their provision in line with advice regarding the level of provision required. The requirement for a lighting strategy could also be the subject of a planning condition.

Conclusion

9.109. Officers are satisfied, on the basis of the advice from the Council's Ecologist that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged. Should the application have been recommended for approval, planning conditions would have been required to ensure the impacts were controlled.

Environmental Matters

9.110. The application is accompanied by a contaminated land desk study. This identifies that there is a low to moderate risk for ground gas and contamination across the site and that there may be a need for remedial action. Intrusive investigation is recommended to further assess potential risks. Given this conclusion, planning conditions could be recommended to require further contaminated land assessment and to secure appropriate mitigation if this application were to be recommended for approval and this is recommended by the Council's Environmental Protection Team.

9.111. The Environmental Protection Team have recommended a condition to request an air quality impact assessment and to ensure the provision of infrastructure to allow for the future installation of electric vehicle charging infrastructure. A Construction Environment Management Plan is also requested. Based on this, it is considered that any environmental risks can be adequately controlled through the provision of additional information that could be requested via planning conditions.

9.112. A Utility Statement has been submitted confirming that the utilities infrastructure within the vicinity of the site appears to be capable of supporting new mains and services to serve the proposed residential development. There is existing electric, gas, water and telecoms services immediately adjoining the site and these should have sufficient capacity to serve the development and the proposal should not place any undue stress on the delivery of these services to the wider community.

Sustainability and Energy Efficiency

9.113. The Cherwell Local Plan includes a number of energy policies in order to seek development which mitigates and adapts to the future predicted climate change. This relates to locating development in sustainable locations as well as seeking to reduce energy use, making use of renewable energy and sustainable construction techniques as well as achieving reductions in water use. Mitigating and adapting to climate change in order to move to a low carbon economy is a key part of the environmental role of sustainable development set out in the Framework.

9.114. The application is not accompanied by a Sustainability or Energy Statement but sustainability is important with regard to how development adapts to future climate change. This is a matter that it is considered could be addressed by the imposition of a planning condition if the application were to be recommended for approval.

Planning Obligations

9.115. Notwithstanding the Officer's recommendation of refusal, should Members resolve to approve the application, a S106 Legal agreement would be required to be entered into to secure mitigation resulting from the impact of the development both on and off site. This would ensure that the requirements of Policy INF1 of the Local Plan can be met, which seeks to ensure that the impacts of development upon infrastructure including transport, education, health, social and community facilities can be mitigated. This includes the provision of affordable housing. The Authority is also required to ensure that any contributions sought meet the following legislative tests, set out at Regulation 122 of the Community Infrastructure Regulations 2011 (as amended):

- Necessary to make the development acceptable in planning terms;
- Directly relate to the development; and
- Fairly and reasonable related in scale and kind to the development

9.116. The following are sought through this application but Officers have not entered into negotiations with the applicant in respect of these matters due to the recommendation:

- Affordable housing – 35% overall, with the split of 70% social rent and 30% intermediate together with arrangements for its provision
- Play provision in the form of a LAP and arrangements for its long term management and maintenance.
- Open space provisions to include the laying out and regulation of such areas and arrangements for the long term management and maintenance including the provision of commuted sums towards surface water drainage features, public open space and hedgerows.
- Contribution towards the enhancement of public transport services serving the site to pump prime bus services on the A4260.
- Contribution towards the provision of two sets of bus stop pole and premium route standard flags and a bus shelter, plus a commuted sum for long term maintenance.
- Contribution towards access mitigation measures on local public rights of way to the east and north of the site (Footpaths 13, 6, 5 and 24 and bridleway 9). This would fund surface improvement, signing and furniture along the routes.
- Administration costs towards a Traffic Regulation Order to enable the relocation of the existing 30mph speed signage from its current location to a point further east close to the junction with the A4260 to bring the entire Berry Hill Road to 30mph.
- An obligation to enter into a S278 Agreement prior to the commencement of the development.
- Contribution towards Nursery and Primary education to be used towards expanding nursery and primary provision at Christopher Rawlins CE (VA) Primary School.

- Contribution towards Secondary education to be used towards expanding secondary provision at The Warriner School.
- Contribution towards offsite outdoor sports towards the development of sports pitches and changing facilities off Milton Road in Adderbury
- Contribution towards off-site indoor sports towards the expansion of/ improvements at Spiceball Leisure Centre in Banbury (which will serve the new residents)
- Contribution towards the development of community hall facilities off Milton Rd in Adderbury
- Likely contribution towards the improvement of local primary medical care facilities. This matter will need to be checked with the CCG as they have not responded to this planning application but a request was made with respect to the previous application 17/02394/OUT.
- The requirement for an apprenticeship and skills training plan to secure apprenticeships.
- Contributions towards waste and recycling bins

Justification for the requested planning obligations and full details of contributions are available on the file.

9.117. Adderbury Parish Council has prepared a list of requests to secure community benefit. These matters would need to be considered against the statutory tests for the request of planning obligations as set out at paragraph 9.107.

9.118. The applicant has entered into some discussion with the Council's Recreation and Leisure Team regarding the requested contributions towards the new leisure facilities proposed on the Milton Road in Adderbury to gain an understanding of how this project is likely to be funded. As it stands the Parish Council intend to use S106 contributions and external grants to fund the project; however, they have not secured all of the contributions at this stage and so there is currently a funding gap. The applicant's view is that their contribution towards this project would be of significant benefit to the recreation scheme off Milton Road and therefore to the residents of Adderbury. Their view is that, if this scheme were approved, the leisure proposals would be more likely to come forward and therefore enhance the sustainability of the village.

9.119. The application's contributions to the leisure project on the Milton Road in Adderbury would contribute to the project but this would be a proportionate contribution based on the number of new dwellings and would not fill the funding gap. It can only therefore be attributed neutral weight in the planning balance as it is a contribution required to make the development acceptable. In any event, a planning obligation must meet the tests set out at paragraph 9.107 and whilst it must be sought to make the development acceptable in planning terms, this must be balanced against any other impacts of the development. In this case, it is not considered that the requested contributions would outweigh the unacceptable impacts identified.

9.120. Given that there is no legal agreement in place to secure the above referenced matters (notwithstanding the applicant may be prepared to enter into such an agreement), it is necessary for a refusal reason to be imposed as there is no

certainty that the infrastructure necessary to make the development acceptable in planning terms will be secured.

Human Rights and Equalities

9.121. The Human Rights Act 1998 (“HRA”) sets out fundamental freedoms which have been laid out by the European Convention on Human Rights (“ECHR”). In making any decisions, Cherwell District Council (“the Council”) should have due regard to and take into account any implications that may arise under the HRA. As a public authority, it is unlawful for the Council to act in a manner which is incompatible with the ECHR.

9.122. The rights under the ECHR which the Council views as being the most likely to affect planning matters are: Article 6 (the right to a fair trial); Article 8 (right to respect for private and family life); Article 14 (prohibition of discrimination); and Article 1 of the First Protocol (protection of property).

Article 6

9.123. Officers have considered these matters and have resolved that, whilst there are potential rights in play, these will not be affected by the application due to the application being publicised by way of neighbour letter, site notice and in the local press giving affected third parties the opportunity to comment on the application and their views taken into account when considering the application. In this case any comments/concerns raised by third parties are listed above and have been taken into account in assessing the application. In addition, third parties will be invited to the public meeting of the Planning Committee and have the opportunity to speak. Furthermore should a third party be concerned about the way the application was decided they could complain to the Local Government Ombudsman or if they question the lawfulness of a decision can appeal to the Courts for Judicial Review of the application.

Article 8 and Article 1 of the First Protocol

9.124. Officers have considered the duties under both Article 8 and Article 1 of the First Protocol and have resolved that the application does respect the private and family life of neighbours and does not fail to protect the neighbours’ property.

Duty under The Equalities Act 2010

9.125. S149 of the Equalities Act 2010 (“EA”) sets out what is known as the Public Sector Equality Duty (“PSED”). Under the PSED, the Council, as a public authority, must have due regard to the need to, inter alia, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and has to foster good relations between persons who share a relevant protected characteristic and persons who so not share it. The protected characteristics to which the PSED refers are: (a) age; (b) disability; (c) gender reassignment; (d) pregnancy and maternity; (e) race; (f) religion or belief; (g) sex; (h) sexual orientation.

9.126. Officers have considered the application and resolved that none of the protected characteristics is affected or potentially affected by the application.

10. PLANNING BALANCE AND CONCLUSION

10.1. The overall purpose of the Planning system is to seek to achieve sustainable development as set out within the Framework. The three dimensions of sustainable

development must be considered, in order to balance the benefits against the harm in order to come to a decision on the acceptability of a scheme.

- 10.2. The proposed development would be located adjacent to a Category A settlement, however the village has already accommodated a significant proportion of the rural housing allowance and no further requirement for housing is identified through the Adderbury Neighbourhood Plan 2014-2031. In addition, the Local Planning Authority can currently demonstrate above a three year housing land supply; therefore there is no pressing need for further development. The site itself is positioned some distance from the main services and facilities within the village and therefore future occupiers are likely to be reliant on the private car, which conflicts with Government Guidance in the NPPF and Policies ESD1, BSC1, Villages 1 and Villages 2, which seek to guide rural housing development to locations which reduce the need to travel and reduce the impact on climate change.
- 10.3. The proposal would result in significant environmental harm in proposing development on an important open site on the edge of the village, outside of the Adderbury Settlement Boundary as defined by Policy AD1 of the Adderbury Neighbourhood Plan 2014-2031, intruding into the open countryside, causing urbanisation and being harmful to the rural setting of the village. The development would have a poorly integrated relationship with the prevailing character of Berry Hill Road by virtue of its scale and suburban character and this, combined with harm to the rural character of this part of the village would fail to reinforce local distinctiveness. This would be contrary to Policies AD1 of the Neighbourhood Plan, Policies ESD13, 15 and Villages 2 of the Cherwell Local Plan 2011-2031 and saved policies C8, C27, C28 and C33 of the Cherwell Local Plan 1996.
- 10.4. The site affords positive views across the landscape towards the grade I listed Church of St Mary. The development of the site would change the rural setting of this part of the village and obscure views of the church. Whilst it is possible that some views could be achieved and negotiated through a reserved matters application, there would nevertheless be harm and there are not considered to be public benefits that would outweigh this less than substantial harm.
- 10.5. The development would however contribute affordable housing (including social rented units) and this as well as the construction of dwellings (of an appropriate mix in terms of dwelling size) would bring some economic and social benefits. The application site would also provide a large area of open space which could enable greater public views towards the listed church from the northern part of the site, which has some environmental benefits. The proposal could also make S106 contributions towards various local infrastructure albeit of a proportionate level arising to meet the needs of the development itself which could bring social benefits (however given there is no completed S106 in place there is no certainty of this at this point in time).
- 10.6. However, these benefits are not considered to outweigh the significant environmental harm identified. On this basis and combined with the reasons set out through this appraisal as well as the identified conflict with the policies of the Development Plan, Officers conclude that the proposal does not constitute sustainable development and recommend the application for refusal.

11. RECOMMENDATION

RECOMMENDATION - REFUSAL FOR THE REASONS SET OUT BELOW

- 1 The development proposed, by reason of its scale and siting beyond the built up limits of the village, in open countryside and taking into account the number of

dwellings already permitted in Adderbury, with no further development identified through the Adderbury Neighbourhood Plan 2014-2031, is considered to be unnecessary, undesirable and unsustainable development. The site itself is in an unsustainable location on the edge of the village, distant from local services and facilities and would result in a development where future occupiers would be highly reliant on the private car for day to day needs. The proposal is therefore unacceptable in principle and contrary to Policies ESD1, BSC1, SLE4 and Villages 2 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.

- 2 The development proposed, by virtue of its poorly integrated relationship with existing built development, its extension beyond the built limits of the village (beyond the Adderbury Settlement Boundary as defined in the Adderbury Neighbourhood Plan 2014 - 2031) causing significant urbanisation and its visual impact on the rural character, appearance of the locality and local settlement pattern, would cause unacceptable harm to the character and appearance of the area and the rural setting of the village and would fail to reinforce local distinctiveness. It would also result in 'less than substantial' harm to the setting of the Church of St Mary and the harm stemming from the proposals is not considered to be outweighed by any public benefits. The proposal is therefore contrary to Policies ESD13, ESD15 and Villages 2 of the Cherwell Local Plan (2011-2031) Part 1, Saved Policies C8, C27, C28 and C33 of the Cherwell Local Plan 1996, Policy AD1 of the Adderbury Neighbourhood Plan - 2014 - 2031 and Government guidance contained within the National Planning Policy Framework.
- 3 In the absence of the completion of a satisfactory S106 Planning Agreement, the Local Planning Authority is not convinced that the necessary infrastructure directly required both on and off site as a result of this development, in the interests of safeguarding public infrastructure, mitigating highway safety concerns, delivering mixed and balanced communities by the provision of affordable housing and securing on site future maintenance arrangements will be provided. This would be contrary to Policy INF1, PSD1, BSC2, BSC9, BSC11 and ESD7 of the adopted Cherwell Local Plan (2011-2031) Part 1 and the advice within the National Planning Policy Framework.