



Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

Land north of Berry Hill Road, Adderbury

Statement of Common Ground

Appeal against the refusal of an application for outline planning permission for a resubmission of application 17/02394/OUT for a development of up to 40 dwellings with associated landscaping, open space and vehicular access off Berry Hill Road (all matters reserved other than access)

LPA Ref: 19/00963/OUT

PINS Appeal Ref: APP/C3105/W/20/3255419

Date of Hearing: 22 June 2021

Hollins Strategic Land & Cherwell District Council

June 2021 (Rev 10)

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1 Key Areas of Common Ground

1.1 These are the key points between the LPA and Appellant:

Tilted Balance

- A. The Council does not presently have a five year supply of deliverable housing sites.
- B. All of the policies which are most important for determining the appeal are out of date.
- C. The tilted balance is engaged.

Reason for Refusal 1

- D. There are no in-principle objections to the appeal proposals with regard saved policy H18 of the Cherwell Local Plan 1996, policies BSC1 or PV2 of the Cherwell Local Plan (2011-2031) save for the consideration of landscape matters
- E. The appeal site is locationally sustainable.
- F. The proposals comply with policies ESD1 and SLE4 of the Cherwell Local Plan.
- G. The Council will no longer contest Reason for Refusal 1.

Reason for Refusal 2

- H. The Council considers that the housing related policies listed in Reason for Refusal 2 are no longer up to date and attract reduced weight in the decision making process. The Appellant considers all policies listed in the Reason for Refusal are out of date and have reduced weight.
- I. The Council considers that the landscape impact set out in Reason for Refusal 2 would significantly and demonstrably outweigh the benefits of the scheme.

Reason for Refusal 3

- J. The s106 Agreement is near completion. Once it is signed by all parties, the Council can then withdraw Reason for Refusal 3.

Other Matters

- K. There is no Heritage Reason for Refusal
- L. There is no Archaeology Reason for Refusal

2 Appeal proposals

- 2.1 The description of development is: 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).
- 2.2 Although not specifically referenced as part of the application description, the Appellant proposes development in accordance with adopted Local Plan policy BSC3 which requires 35% affordable housing (i.e. up to 14 units) and 5% housing (i.e. up to 2 units) built to Lifetime Homes standards. This can be secured by s106/condition.
- 2.3 A list of plans and documents to be used by the decision maker when assessing the appeal proposals will be provided in advance of the Hearing.

3 Description of the site

- 3.1 The appeal site is some 4ha in extent. It comprises of land currently used as equestrian, with a sand paddock, stables and an access track occupying the eastern side of the site and the remainder comprises grass paddocks. The southern portion of the site is reasonably level; the northern portion falls northwards to vegetated land.
- 3.2 The site is largely surrounded by field hedgerows and trees, with Public Right Of Way (PROW) footpaths extending along the northern and eastern boundaries. Part of the western boundary abuts the last of the houses along Berry Hill Road, which form the settlement boundary of Adderbury in this locality. The existing development along Berry Hill Road forms part of the Berry Hill Rd/ St Mary's Character Area, as per the Neighbourhood Plan. Adderbury is classified a Category A sustainable village and service centre.
- 3.3 Glimpse views of the site are available through the hedgerow and tree lined boundaries to the east from the PROW and south from Berry Hill Road with more extensive views available from the PROW to the north:
- To the north, the site is bound by a Public Right of Way (PROW) beyond which the land falls into a densely vegetated valley where the former railway existed;
 - To the east, the site is bound by another PROW with hedgerows and trees either side, beyond which lies open countryside;
 - To the south, a hedgerow and trees separate and partially screen the site from Berry Hill Road, which has no footways and beyond the road to the south lies open countryside; and,
 - To the west, approximately half of the site boundary adjoins existing residential development and another sand paddock, with the remainder of the boundary adjoining land used for grazing purposes.
- 3.4 A number of local services and facilities are accessible by foot/cycle within Adderbury, including the S4 bus service that runs hourly between Banbury and Oxford along the A4260 Oxford Road.

4 Relevant Planning History

4.1 The relevant planning history for this site is as follows:

- An application (no. 02/01009/F) for erection of stable block, hay barn and manège with trach to existing access was granted permission in 2002;
- An application (no. 05/01468/F) for erection of one bungalow with associated access and re-siting of stables was refused in 2005;
- An application (no. 06/00712/OUT) for outline permission for 17No. dwellings (5 open market and 12 affordable) along the site frontage was refused in 2006 and the subsequent appeal (APP/C3105/W/06/2032232) was dismissed;
- An application (no. 17/02394/OUT) for outline permission for up to 55No. dwellings was refused on 25/05/2018 for the following reasons and the subsequent appeal (APP/C3105/W/18/3216992) was withdrawn:
 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.

5 Reasons for Refusal

5.1 The application was refused for the following reasons, and not those listed at para. 6.1 of the LPAs Statement of Case:

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. 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.*

Reason for Refusal 1

5.2 The Council will no longer contest Reason for Refusal 1.

Reason for Refusal 2

5.3 The Council considers that the landscape impact set out in Reason for Refusal 2 would significantly and demonstrably outweigh the benefits of the scheme.

Reason for Refusal 3

5.4 It is anticipated that the s106 will be signed by all parties and when this has been done, the Council can then withdraw Reason for Refusal 3.

Heritage

5.5 There is no Heritage Reason for Refusal (RfR). The recommended RfR 2 set out in the Committee Report and referenced at para. 6.1 of the LPAs Statement of Case incorporated the following: *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*

5.6 However, this was removed following a verbal update from the LPA at the Committee Meeting, which confirmed that the LPA had discussed the proposals with Historic England (the government's expert advisor on England's heritage) in their role as statutory consultee and resulted in the formally resolved position of the Council being that there is no Heritage RfR.

5.7 The Council's Statement of Case does not attempt to reintroduce a Heritage RfR. The Council does not allege 'substantial harm' or 'less than substantial harm' to the Conservation Area or the Church of St Mary's.

5.8 At para. 8.6 and 8.14 of its Statement, the Council was not intending to add an additional reason for refusal on heritage, or allege that there would be any harm to the significance or setting of the listed asset (St Mary's Church). The Council accepts that there would be no harm to the listed Church, or its setting, or to any other heritage asset or its setting.

5.9 The Council's comments in its Statement in relation to views of the Church were not intended to amount to an allegation that there would be harm to the significance or setting of the Church but was intended to convey the Council's opinion that the impact

on views of the Church would lead to a visual impact on the rural character, appearance of the locality and local settlement pattern of Adderbury

- 5.10 The Appellant agrees that there would not be any harm to any heritage asset or the setting of any heritage asset, but maintains that the proposal would not harm the rural character, appearance or local settlement pattern of Adderbury.

Archaeology

- 5.11 There is no archaeology RfR.

- 5.12 At para. 8.6 of its Statement, the Council does not allege, and has no evidence to suggest, that the site itself has any heritage significance, and does not allege that the proposals would cause harm to any heritage asset. A condition can be imposed relating to archaeological investigation and recording, as appropriate, and that is sufficient.

Locational Sustainability

- 5.13 The Council is satisfied that the site is locationally sustainable and does not pursue the points to the contrary in Reason for Refusal 1 or the Statement of Case. .

6 Access

Traffic Calming Scheme

- 6.1 Since the date of the decision on the application, Oxfordshire County Council (OCC) has approved a traffic calming scheme in Adderbury, including along Berry Hill Road. The approved scheme is enclosed¹. Work on the scheme is due to commence in June 2021.
- 6.2 The Appellant produced a revised highway improvement plan (Drwg no. 1899-F03²) to incorporate the traffic calming scheme.
- 6.3 OCC subsequently confirmed that the traffic calming scheme along Berry Hill Road and the proposed residential development can both be implemented without any impact to highway safety.
- 6.4 The Council and Appellant agree that the Inspector should consider the appeal proposals on the basis of plan 1899-F03.
- 6.5 The Council and Appellant agree that the traffic calming scheme will impact on the character and appearance of Berry Hill Road.

Access Plan

- 6.6 The application was decided on the basis of Plan 1899-F01 Rev G which showed a 1.5m footway with 0.5m verge. However, during s106 discussions, OCC stated that it could not support the provision of a 1.5m footway with 0.5m verge. The Appellant and LPA were of the opinion that OCC had no objections to this. Nevertheless, the Appellant has amended Plan F01 and Rev J, which provides a 2m footway, and this has now been approved by OCC.
- 6.7 The Inspector should base the decision on Plan F01 rev J³.

¹ Appendix 1: Traffic calming scheme

² Appendix 2: 1899-F03

³ Appendix 3: F01 rev J

7 Development plan

7.1 The development plan for the purposes of this appeal comprises the:

- Local Plan Part 1 (LPp1);
- Cherwell Local Plan 1996 saved policies (CLP); and,
- Adderbury Neighbourhood Plan (ANP).

7.2 The Local Plan Part 1 Partial Review does not include policies relevant to the appeal.

Local Plan Part 1 (2011 - 2031)

7.3 The Local Plan Part 1 (LPp1) was formally adopted by Cherwell District Council (CDC) on 20/07/2015 and provides the strategic planning policy framework for the District to 2031.

7.4 Table 1 sets out the LPp1 policies considered relevant by the Appellant and CDC.

| LPp1 Policy reference | LPp1 Policy heading |
|-----------------------|---|
| 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 – brownfield land and housing density |
| BSC3 | Affordable housing |
| BSC4 | Housing mix |
| BSC8 | Securing health and well-being |
| 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 & 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 |
| Policy Villages 4 | Meeting the needs for Open Space, Sport and Recreation |
| INF1 | Infrastructure |

Table 1: Relevant LPP1 policies (Those marked * relevant at Reserved Matters)

7.5 The appeal site is located adjacent to the settlement boundary of Adderbury, which is categorised as a Category A village under Policy Villages 1 (PV1). After the main towns of Banbury and Bicester, the largest service centre village of Kidlington and the planned redevelopment of the former RAF Upper Heyford site, where most new development is planned to be accommodated, Category A villages are considered to be the most sustainable rural locations at which to accommodate growth. They offer a range of services and are generally well connected to major urban areas, particularly by public transport. Of the 23 Category A villages, 6⁴ (including Adderbury) are identified as “service centres” for the “satellite villages”, forming a “village cluster”.

⁴ Adderbury, Ambrosden, Bloxham, Cropredy, Deddington, Steeple Aston

Cherwell Local Plan 1996 Saved Policies

- 7.6 The Cherwell Local Plan 1996 (CLP) was adopted on 06/11/1996. A number of policies were then originally 'saved' on 27/09/2007, in the context of PPS7. The LPp1 replaced a number of the 'saved' policies of the CWP though many of the 'saved' policies are retained by CDC and remain part of the development plan. Appendix 7 of the LPp1 lists those CLP policies that have been replaced.

| CLP Policy reference | CLP Policy heading |
|----------------------|--|
| 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 |

Table 2: Relevant CLP policies (Those marked * relevant at Reserved Matters)

Adderbury Neighbourhood Plan 2014 – 2031

- 7.7 The Adderbury Neighbourhood Plan (ANP) was Made on 16/07/2018 and was examined under NPPF 2012.

| ANP Policy reference | ANP Policy heading |
|----------------------|---|
| AD1 | Adderbury settlement boundary |
| AD2 | Green infrastructure |
| AD16 | Managing design in Berry Hill Road and St Mary's Road |

Table 3: Relevant ANP policies

- 7.8 The Adderbury settlement boundary defined in the made Adderbury Neighbourhood Plan (July 2018) adjoins part of the western boundary of the appeal site. There is no settlement boundary policy in the LPP1.
- 7.9 The site is bound by the Adderbury Green Infrastructure (GI) network to the north and east. Policy AD2 identifies a GI opportunity along Berry Hill Road. The site also adjoins the eastern edge of the Berry Hill Road and St Mary's Road Character Area.
- 7.10 The site was assessed as part of the NP evidence base (Sustainability Appraisal).

Supplementary Planning Documents

- 7.11 The following Supplementary Planning Documents (SPD) are considered relevant:
- Cherwell Residential Design Guide SPD (2018); and,
 - Developer Contributions SPD (2018).

Emerging Development Plan documents

- 7.12 The LPA and Appellant agree that the following emerging DPDs are relevant but given their early stage of preparation carry no significant weight:
- Cherwell Local Plan Review 2040; and,
 - Oxfordshire Plan 2050.

Cherwell Local Plan Review

- 7.13 The LDS states that the CLPR was due to be adopted by July 2023. District Wide Options Consultation was due to be undertaken in February and March 2021 but is now scheduled to take place in June/July 2021.

- 7.14 The CLPR timetable has experienced some slippage but is still likely to be adopted towards the end of 2023.

- 7.15 The CLPR should be afforded very limited weight.

Oxfordshire Plan 2050

- 7.16 The Oxfordshire Plan (OP) was originally due to be submitted to the Inspectorate for independent examination by 31/03/2020 and adopted by 31/03/2021. The latest timetable was presented to the Oxfordshire Growth Board in November 2020 via the 'Proposed new

timetable and quarter two report' (the Timetable Report') and states that the OP will not be adopted until May/June 2023.

7.17 The OP should be afforded very limited weight.

Written Ministerial Statement: Housing Land Supply in Oxfordshire

7.18 The LPA and Appellant agree that the March 2017 WMS is no longer relevant. The following Statement was made on 25/03/2021:

In March 2017 the Government committed to the Oxfordshire Housing and Growth Deal (the deal), to support ambitious plans to deliver 100,000 homes by 2031. The deal committed to an Oxfordshire-wide Joint Statutory Spatial Plan to be adopted by 2021, and to be supported by £215 million of funding to help deliver more affordable housing and infrastructure improvements to support sustainable development across the county.

As part of the deal, to support this strategic approach to supporting housing delivery through joint working, Oxfordshire was granted flexibility from the National Planning Policy Framework policy on maintaining a five year housing land supply. Since 2018, Oxfordshire have had to provide proof of a three-year land supply for planning purposes. This has worked to support the delivery of the local plans for the area and ensure that the local authorities could focus their efforts on their Joint Spatial Strategy.

This flexibility was laid out by Secretary of State at the time the Rt Hon James Brokenshire MP in a Written Ministerial Statement on 12 September 2018 - <https://questions-statements.parliament.uk/written-statements/detail/2018-09-12/hcws955> (opens in a new tab).

Since 2018, Oxfordshire have not finalised and adopted their Joint Statutory Spatial Plan. Therefore, in the best interests of housing delivery in the region, my Department have extended the time afforded to Oxfordshire for the delivery of this plan to 2023. This extension however will not be subject to the original land supply flexibilities. From today, Oxfordshire will need to maintain a five year housing land supply in accordance with the National Planning Policy Framework.

This statement is a material consideration in planning decisions and applies to those local planning authorities in Oxfordshire with whom the Government agreed the Oxfordshire Housing and Growth Deal with, namely Cherwell District Council, Oxford City Council, South Oxfordshire District Council, Vale of White Horse District Council and West Oxfordshire District Council. This statement applies from today.

8 Areas of agreement

8.1 These are the areas of agreement between the LPA and Appellant.

s106 Agreement

8.2 The LPA and Appellant agree that Reason for Refusal 3 can be overcome via a s106 Agreement. Both parties will work proactively to ensure this is completed in advance of the Hearing.

Development plan policies

8.3 The Appellant and LPA agree that the proposals do/can be made to* comply with the policies set out in the Table below:

| Policy Reference | Policy Heading |
|--------------------------|---|
| Local Plan Part 1 | |
| BSC1 | District wide housing distribution ⁵ |
| BSC2* | The effective and efficient use of land – brownfield land and housing density |
| BSC3* | Affordable housing |
| BSC4* | Housing mix |
| BSC8* | Securing health and well being |
| 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 |
| SLE4 | Improved Transport and Connections |
| ESD1 | Mitigating and adapting to climate change |
| ESD2* | Energy Hierarchy and Allowable Solutions |
| ESD3* | Sustainable construction |
| ESD5* | Renewable Energy |
| ESD6* | Sustainable flood risk management |

⁵ The Council is in agreement in light of the proposals contributing towards meeting the 750 Category A figure

| | |
|---|--|
| ESD7* | Sustainable drainage systems |
| ESD10* | Protection and enhancement of biodiversity and the natural environment |
| ESD17* | Green infrastructure |
| Policy Villages 4* | Meeting the needs for open space, sport and recreation |
| INF1* | Infrastructure |
| Cherwell Local Plan Saved Policies | |
| C28* | Layout, Design and External Appearance of New Development |
| C30* | Design control |
| Adderbury Neighbourhood Plan | |
| AD2* | Green infrastructure |

Table 4: Policies complied with

LPp1 policy BSC1

- 8.4 In the Ambrosden appeal, the Council accepted that the overall strategy of the plan to deliver most housing to Bicester and Banbury was succeeding, on the basis of 73% of housing (completions and commitments) going to Bicester and Banbury against a target of 76%.
- 8.5 The 2020 AMR demonstrates that the Council is now achieving its target of 76%.
- 8.6 The Council now considers that the proposals, on balance, comply with policy BSC1. This follows the recent Committee Reports for applications 20/02083/OUT ('the Deddington application' for 14 dwellings)⁶ and 21/00500/OUT ('the Hook Norton application' for 43 dwellings)⁷ which represents a change in position for the Council with regard policies H18, BSC1 and PV2 (in part). Officers/The Council⁸ now considers there to be no in-principle conflict with these policies until such time as the 750 headline figure set out in PV2 has been delivered.
- 8.7 Consistency in decision making is an important material consideration.

⁶ Appendix 4: Deddington application Committee Report

⁷ Appendix 5: Hook Norton application Committee Report

⁸ The LPA will inform the Appellant and the Inspectorate whether it is the Officer's view or the Council's view on 18/06/2021.

CLP policy H18

- 8.8 The Council and Appellant agree that there should be no in-principle objection to the appeal proposals with regard H18 due to its reduced weight in light of shortage of deliverable housing land and NPPF para.11(d), consistent with the approach set out in the Committee Reports for the Deddington and Hook Norton applications.

LPp1 policy PV2

- 8.9 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. Adderbury is also a service centre for the satellite villages.
- 8.10 CDC attempted to challenge the Ambrosden decision in the High Court, but were refused permission. The refusal was issued after the Council decided to refuse the application subject of this appeal.
- 8.11 The Appellant and Council agree that there should be no in-principle objection to the appeal proposals, consistent with the approach set out in the Committee Reports for the Deddington application and the Hook Norton application⁹. Between 1 April 2014 and 31 March 2020 there were a total of 415 net housing completions on the above sites. This equates to 55.3% of the headline figure of 750. At this time, the principle of development remains acceptable in policy terms.
- 8.12 Subject to the prior completion of a satisfactory s106 Planning Obligation Agreement, CDC is satisfied that the proposals should not result in local infrastructure being unable to cope, land of higher environmental value being developed or out-commuting and traffic congestion being unacceptable.
- 8.13 Previous developments permitted at Adderbury have equated to about 16% of all development allowed at Category A settlements.

PV2 criteria

- 8.14 To be consistent with PV2, the policy sets out criteria against which to consider sites.

⁹ The LPA will inform the Appellant and the Inspectorate on 18/06/2021 whether this is the Officers view or the Council's view

8.15 CDC and the Appellant agree that the proposals comply with bulleted criteria 2,3, 4, 6, 7, 8, 10 & 11. Also, criteria 9 is not relevant.

ANP policy AD1

8.16 Policy AD1 is out of date. The Appellant and Council agree that there should be no in-principle objection to the appeal proposals.

8.17 The Council considers ANP policy AD1 to be the key policy in respect to considering the principle of development, as per para. 9.15 of the Committee Report.

8.18 The proposals would not comply with policy AD1 insofar as the proposals are outside the settlement boundary.

8.19 The ANP was Made in July 2018 and is more than 2 years old.

Locational sustainability

8.20 The LPA and Appellant agree that the site is locationally sustainable.

8.21 The LPA and Appellant agree that the Inspector's decision for appeal 2032232 was issued on 22/03/2007 at a time when the policy and guidance context will have differed from that set out in the current development plan, national policy and guidance.

8.22 The locational sustainability of the site should be viewed in the context of:

- The site being adjacent to the edge of a sustainable Category A village and service centre;
- Policy PV2 seeking the delivery of 750 homes in Category A villages;

Accessibility on foot

8.23 The LPA and Appellant agree that accessibility on foot should be considered against the distances set out in Tables 2.1 and 2.2 of the Accessibility Statement.

8.24 The Appellant and LPA agree that Tables 2.5, 2.6 and 2.7 of the AS are accurate.

Accessibility by cycle

8.25 The LPA and Appellant agree that an acceptable and comfortable distance for general cycling is up to 5km and general commuting cycling is acceptable up to 8km.

8.26 The LPA and Appellant agree that Table 2.8 of the AS is accurate.

Accessibility by Bus

8.27 The nearest existing bus stop is approximately 480 metres from the centre of the site. The proposed bus stops along Oxford Road will be some 350m from the centre of the site. There is an hourly S4 bus service throughout the majority of the day. The most recent timetable is appended¹⁰.

8.28 Table 2.10 is accurate.

¹⁰ Appendix 6: S4 timetable March 2021

8.29 It is of note that Banbury is only a 20 minute journey from Berry Hill Road. The recent Banbury appeal site (land north and west of Bretch Hill Reservoir, Balmoral Avenue, Banbury) is also a 20 minute bus journey to Banbury.

8.30 It is also understood that as part of a recently consented development in nearby Deddington (ref: 20-02083-OUT) that a Section 106 is being secured by that particular applicant which will allow the S4 to become a half-hourly service.

Accessibility by Rail

8.31 Banbury train station is accessible via a 4 minute walk to the bus stop, a 20 minute bus journey to Banbury bus station and a 4 minute walk to the train station. The train station provides frequent, regular and direct train services.

Benefits of proposed development

8.32 The LPA and Appellant agree that the proposals would provide the following benefits:

Social benefits

- A. Contribution to market housing in context of requirement to boost supply;
- B. Contribution to housing provision in context of LPp1 plan period requirement;
- C. Provide much needed small and moderately sized homes, subject to the granting of conditional permission to include a housing mix condition;
- D. Contribute to affordable housing to meet an acknowledged shortfall and local need;
- E. Provision of elderly housing, subject to the granting of conditional permission;
- F. Have the potential to provide high quality public open space, accessible to existing residents and managed in perpetuity, contributing to an acknowledged shortfall, subject to completion of s106 Agreement; and,
- G. New publicly accessible views of St Mary's Church.

Economic benefits

- H. Provide employment opportunities for the construction industry and benefit the wider construction industry supply chain; and,
- I. Result in spending in local shops and businesses.

Environmental benefits

- J. Enhance biodiversity at the site.

A: Contribution to Housing in context of deliverable supply

8.33 The LPA and Appellant agree that the Council cannot demonstrate a five-year supply. As confirmed in the Banbury appeal decision¹¹, "there is an identified need for further housing in the district" (para. 7) Para. 7 continues to state that the Council is currently failing to provide for the identified need.

8.34 The AMR states that the LPA can demonstrate a supply of 4.7 years (using the Sedgefield method). The Appellant considers that the Council has attempted to unilaterally reduce its annual requirement and that the supply should be 4.5 years.

¹¹ Appendix 7: Banbury appeal decision

8.35 The weight to be afforded to the provision of up to 40 homes is not agreed. It would contribute towards boosting supply.

8.36 The LPAs Statement of Case states that this benefit should be afforded substantial weight. In the Deddington application Committee Report, the Council afforded the provision of 14 dwellings significant weight. In the Hook Norton Committee Report, the Council afforded the provision of 43 dwellings significant weight.

B: Contribution to housing in context of LPP1 requirement

8.37 The Council's latest published Annual Monitoring Report (April 2019 – March 2020) published December 2020 states that it can deliver 23122 homes, 282 more than the figure set by policy BSC1.

C: Provision of small and moderately sized homes

8.38 One of the key community issues facing the villages and rural areas is the lack of smaller homes generally.

8.39 The most up to date evidence on housing need is provided in the pre-amble to policy BSC4:

| | 1-bed | 2-bed | 3-bed | 4-bed |
|----------------------|--------------|--------------|--------------|--------------|
| Market | 5% | 25% | 45% | 25% |
| Affordable | 25-30% | 30-35% | 30-35% | 5-10% |
| All Dwellings | 15% | 30% | 40% | 15% |

8.40 There is a greater need for 3-bed properties in Cherwell and the overall mix is focussed towards smaller properties.

8.41 There is a locally widening gap in the ratio of house prices to earnings. The affordability ratios set out in Table 9 of the Appellant's Statement are accurate.

8.42 The AMRs confirm that there has been no monitoring of LPP1 policy BSC4 in the last two monitoring years.

8.43 BSC4 was monitored in 2016/17 and 2017/18. This showed a significant under provision of 3-bedroomed homes and an over-provision of 4-bedroomed homes.

8.44 Tables 11 and 12 of the Appellant's Statement are accurate. These show an under-provision of smaller homes and an over-provision of 4-bedroomed+ homes in Category A villages, including Adderbury.

8.45 A condition can be imposed requiring housing mix to be agreed at RM stage. This will deliver much needed smaller housing and this should be given weight.

D: Affordable housing

8.46 There is a district-wide and Adderbury specific need for affordable housing.

8.47 There is a need to increase delivery of affordable housing in the rural areas of the district.

8.48 There have been no social rented units provided in Cherwell for 5 years.

8.49 As confirmed in the Banbury appeal decision, "*the need for more affordable housing is more acute than the need for market housing*" (para. 7)

8.50 The proposed affordable housing is a significant benefit and material consideration in the determination of this appeal, attracting substantial weight in the overall planning balance.

E: Provision of elderly housing

8.51 The need to provide elderly housing nationally is critical and this is reflected in Cherwell.

8.52 The provision of elderly suitable units within the scheme should be afforded weight in favour of the appeal proposals.

F: Provision of green infrastructure

8.53 One of the key community issues facing the villages and rural areas is the deficiencies in open space provision.

8.54 There is a shortfall of natural/semi-natural green space in Adderbury and a need to improve accessibility to POS.

8.55 The Council wants to provide new equipped play areas and additional play opportunities in the Rural North, including Adderbury.

8.56 Approximately 0.26ha of on-site POS would be required by CDC and the proposals could provide some 2.53ha comprising of semi-natural greenspace, amenity greenspace and an equipped play area as well as an orchard and seating towards the Church spire. The POS can be easily accessed via the PROW network and the new footway proposed along Berry Hill Road.

8.57 The proposed GI weighs in favour of the proposals.

G: Views of St Mary's Church

8.58 The provision of POS in the northern part of the site would provide new unrestricted publicly accessible views of the church and its contextual landscape.

8.59 This is a benefit to be weighed in favour of the appeal proposals.

Economic benefits

8.60 The economic benefits that arise from the appeal proposals are of more importance now than they would have been at the time the application was refused, because of the economic impact of the pandemic.

8.61 CDC has acknowledged the impact that the pandemic will have on its five year supply by seeking to reduce its requirement. If this impact were to come to fruition, it would impact on the construction industry and supply chain.

8.62 The Council afforded minor to moderate weight to the economic benefits that would arise from the 14 dwellings approved via the Deddington application and the 43 dwellings recommended for approval in the Hook Norton Report.

H: Employment opportunities for construction industry and benefits to supply chain

8.63 The development could be built out in 1.5 years, providing 1.5 years of economic benefits for the construction industry.

I: Spending in local shops and businesses

8.64 The permanent economic benefits would accrue to the local shops and businesses in Adderbury and the surrounding area. The proposals would help to maintain local services and facilities.

J: Enhance biodiversity

8.65 There is currently no development plan policy which requires a 10% biodiversity net gain. It is acknowledged that in January 2021 the Council's Executive Committee approved a Community Nature Plan (CNP) proposal 'seeking a minimum of 10% biodiversity net gain through engagement with the planning process'. The appeal scheme seeks to go over and above both the requirements of policy and the Council's aspiration in the CNP.

8.66 A 24.32% biodiversity net gain could potentially be achieved along with a 19.69% gain in hedgerow units.

8.67 This is higher than anticipated at application stage. Biodiversity enhancement as mitigation for development impact is a Development Plan requirement. Any increased enhancement above that required should be given weight in favour of the appeal proposals.

Tilted balance

8.68 The LPA and Appellant agree that the tilted balance is engaged. The Council cannot demonstrate a five year supply of deliverable housing sites, as required by paragraphs 73 to 76 of the NPPF.

8.69 The LPA and Appellant agree that the Inspector must consider whether the adverse impacts significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

8.70 All of the policies that are most important for determining the application (those listed in the Reasons for Refusal) are out of date in accordance with footnote 7 and para. 11 of the NPPF

8.71 The Council applied the tilted balance when recommending approval of both the Deddington and Hook Norton applications. In those cases, the Council decided that the adverse impacts did not significantly and demonstrably outweigh the benefits associated with the 14 and 43-dwelling schemes.

9 Areas of disagreement

9.1 These are the areas of disagreement between the LPA and Appellant.

9.2 The LPA considers that the proposals do not comply with the policies set out in the following table:

| Policy Reference | Policy Heading |
|---|---|
| Reason for Refusal 2 | |
| <i>Local Plan Part 1</i> | |
| ESD13 | Local landscape protection and enhancement |
| ESD15 | The character of the built and historic environment |
| Policy Villages 2 | Distributing growth across the rural areas (specifically criteria 1, and 5) |
| <i>Cherwell Local Plan Saved Policies</i> | |
| C8 | Sporadic Development in the Open Countryside |
| C27 | Development in villages to respect historic settlement pattern |
| C28 | Layout, Design & External Appearance of New Development |
| C33 | Preserving Undeveloped Land / Preserving View of Historic Value |
| <i>Adderbury Neighbourhood Plan</i> | |
| AD1 | Adderbury settlement boundary |

Table 5

LP policy PV2

9.3 Whereas the Appellant and Council are able to agree that criteria 9 is not relevant and that the proposals comply with criteria 2, 3, 4, 6 – 8 and 10 – 11, agreement cannot be reached with regard 1 and 5.

Criterion 1

9.4 The Appellant considers that the site is partly previously developed land and is also of lesser environmental value. The Council disagrees on the basis of the site being open countryside which contributes significantly to the character and appearance of its surroundings and the setting of the village.

Criterion 5

- 9.5 The Appellant and Council cannot agree on whether significant landscape impacts could be avoided.

CLP Policy H18

- 9.6 Policy H18 is no longer up to date. The Council considers that policy H18 is still of relevance but carries reduced weight in light of the District's lack of a 5-year housing land supply.

CLP Policy C8

- 9.7 The Appellant considers that the proposals do not represent sporadic development and that, in any event, policy C8 is out of date. The Council considers that policy C8 is still of relevance but carries reduced weight in light of the District's lack of a 5-year housing land supply.

CLP Policy C33

- 9.8 Policy C33 seeks to retain undeveloped gaps of land which are 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.
- 9.9 The Appellant considers that policy C33 should not have been included in RfR 2. It is the Council's case that Berry Hill Road has a loose knit structure and that the proposals would not enhance views of St Mary's Church, but would cause harm to views of St Mary's Church.

ANP policy AD1

- 9.10 The policy is no longer up to date. The Council considers that policy AD1 is still of relevance but carries reduced weight in light of the District's lack of a 5-year housing land supply.

Benefits

C: Provision of small and moderately sized homes

- 9.11 The Appellant considers this benefit should be afforded significant weight. The LPA considers it should be afforded some weight.

D: Affordable housing

- 9.12 The Appellant considers this benefit should be afforded substantial weight. The LPA considers it should be afforded some weight.

F: Provision of green infrastructure

- 9.13 The Appellant considers this benefit should weigh heavily in favour of the appeal proposals. The LPA considers that, in general, provision of GI should be afforded neutral weight but accepts some weight to overprovision.

G: Views of St Mary's Church

- 9.14 The Appellant considers that the new views of the church would allow for a better appreciation of the building within the landscape. The proposals could result in improved views of the church from new safe pedestrian route along Berry Hill Road and views from within and through the site could be enhanced through increased accessibility. These views are shared by Historic England.

- 9.15 The Council disagrees and considers that the creation of a public open space in the northern part of the site, as suggested in the Illustrative plans, would afford views of the church and parts of the surrounding countryside from positions not currently publicly available but that those same views are already available from Berry Hill Road and the PROWs, so there would be no enhancement and there would be harm to the views currently afforded from Berry Hill Road.

J: Biodiversity

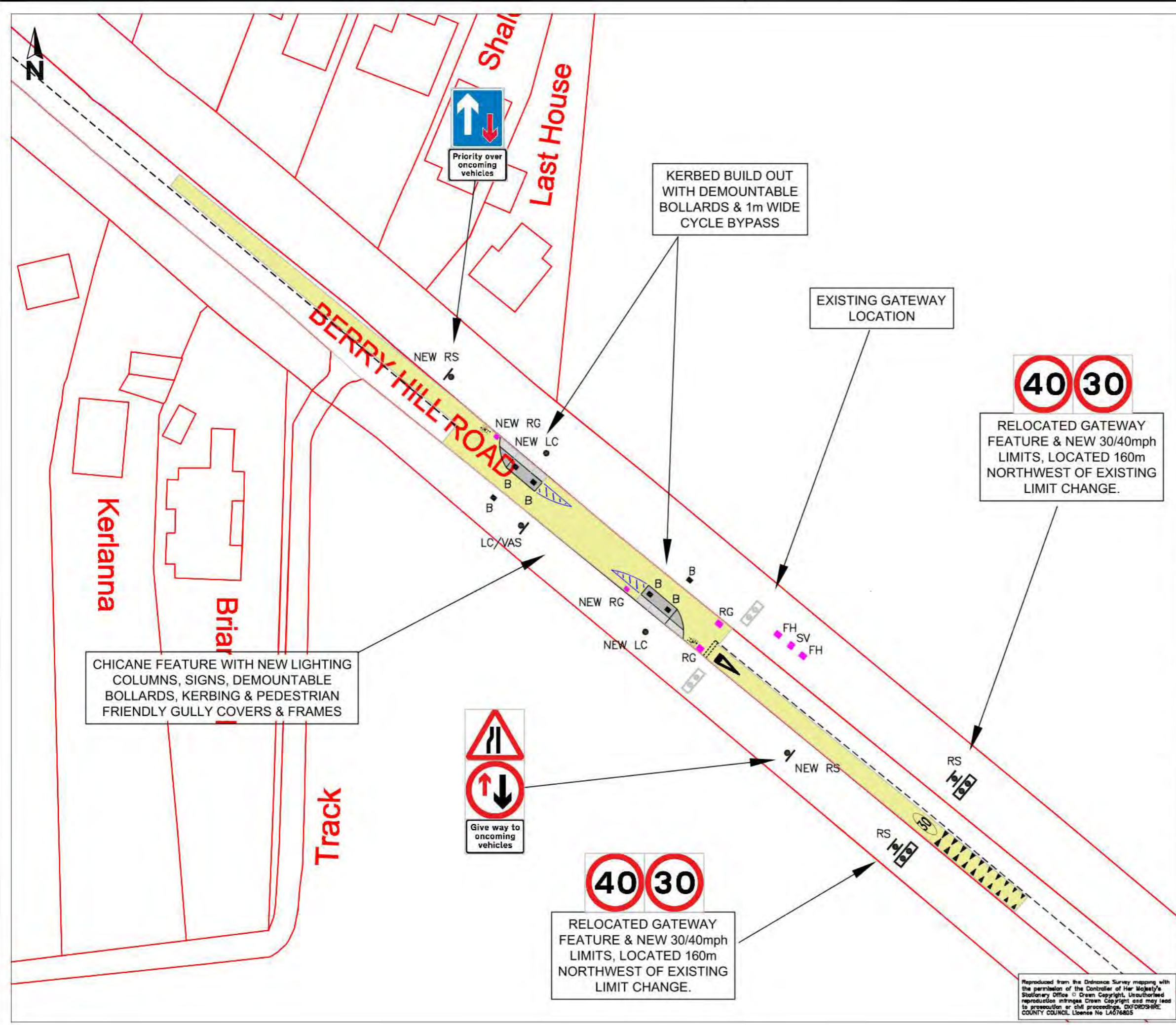
- 9.16 The Appellant considers the potential net gain should be given significant weight. The Council considers it should be given modest weight.

K: Sustainability of Adderbury

- 9.17 The Appellant considers the proposals will enhance the sustainability of Adderbury for the reasons set out in the Statement of Case. The Council considers that this proposal will not improve general connectivity or accessibility. The existing PROWs already provide connectivity from Berry Hill Road/St Mary's Road properties to the village centre and the wide verge along Berry Hill Road already provides connectivity to the PROW along the eastern site boundary. Other works would be necessary to mitigate development impacts.

| | |
|--|--|
| <p>Signed on behalf of Appellant</p>  <p>Matthew Symons</p> | <p>Signed on behalf of Local Planning Authority</p>  <p>Andy Bateson</p> |
| <p>Date: 17/06/2021</p> | <p>Date: 17/06/2021</p> |
| <p>Position: Planning Manager</p> | <p>Position: Team Leader, Major Developments</p> |

Appendix 1



- KEY**
- 65 PSV Surface course plane & inlay
 - Kerbed build-out
 - Cycle bypass
 - New kerb
 - Road sign
 - Lighting column
 - Wooden bollard (170x170mm with red & white reflective banding)
 - Road gully grating and frame.
 - Manhole cover & frame; ("BT" British Telecom)
 - Fire hydrant cover and frame.
 - Stop valve box

| Rev. | Date | Purpose of revision | Drawn | Checked | Approved |
|------|--------|--------------------------------------|-------|---------|----------|
| A | Oct 20 | Amended feature & speed limit notes. | CW | | MW |

OXFORDSHIRE COUNTY COUNCIL

Oswin Jenkins
Director of Communities Operations
Oxfordshire County Council
County Hall
New Road
Oxford
OX1 1ND
Tel: 0845 310 1111

Project title
**MILTON Rd/BERRY HILL Rd
ADDERBURY
TRAFFIC CALMING MEASURES**

Drawing title
**GENERAL ARRANGEMENT
EASTERN GATEWAY**

Drawing Status **PRELIMINARY DESIGN**

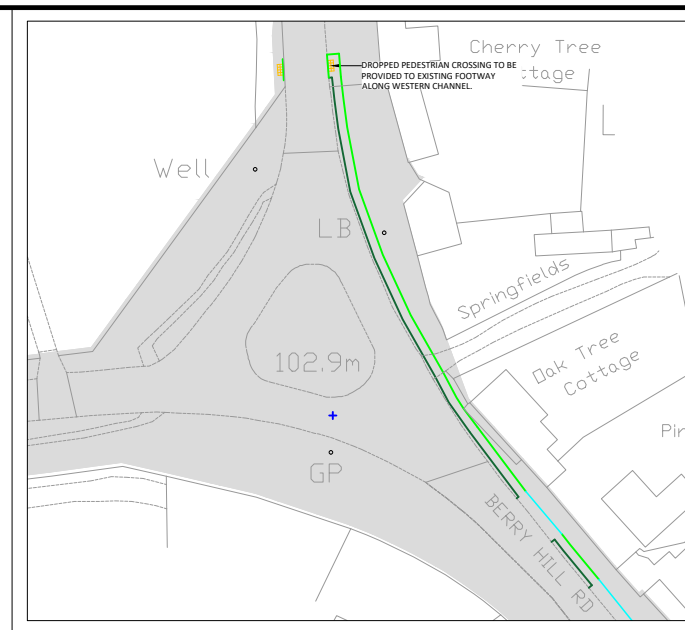
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|---------------------|--------------------------|----------------------------|-----------------------------|
| Scale @ A3 1:500 | Drawn by CW | Checked by Date checked | Approved by MW |
| | Date drawn Sept. 2020 | Date checked | Date approved Sept. 2020 |

Oxfordshire Project No. & File Ref
XXX

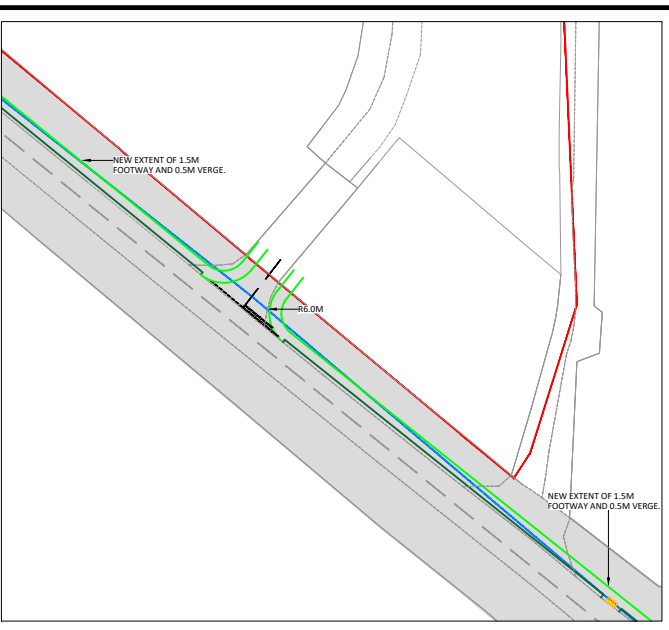
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Appendix 2

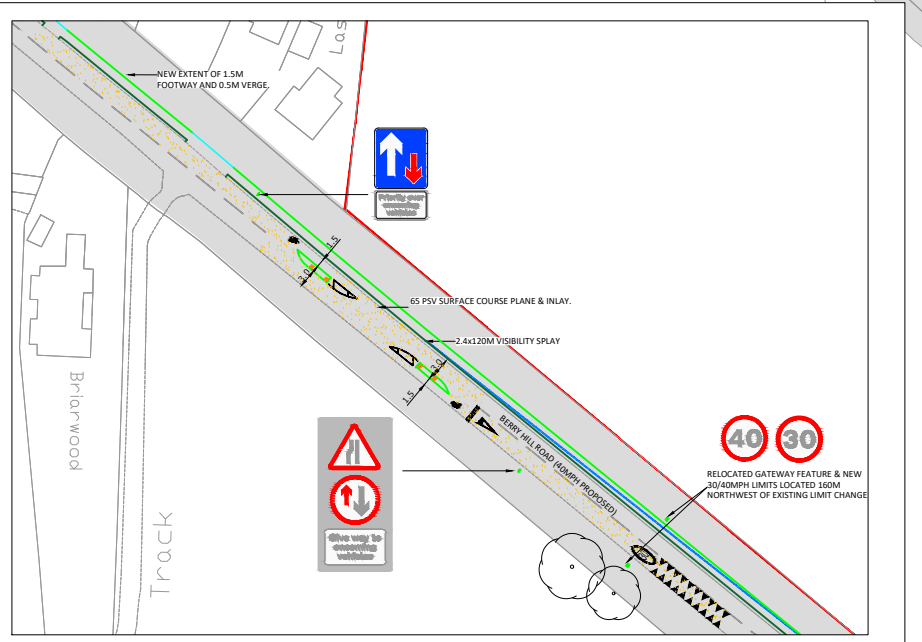
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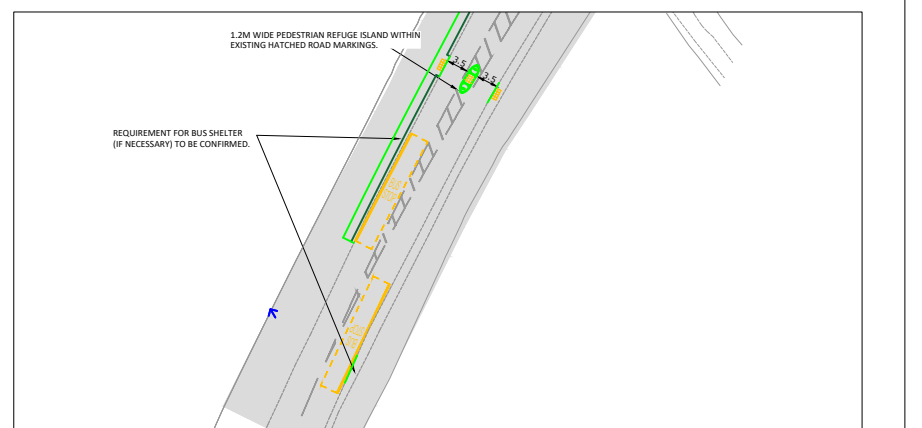
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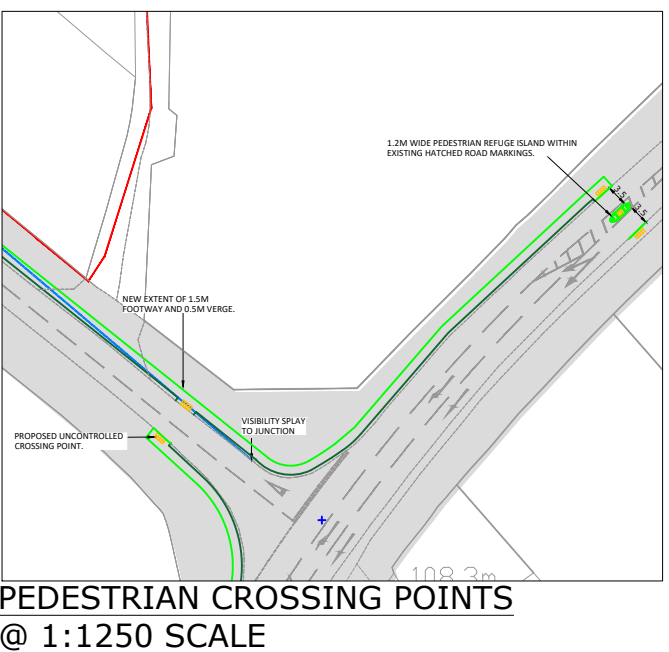
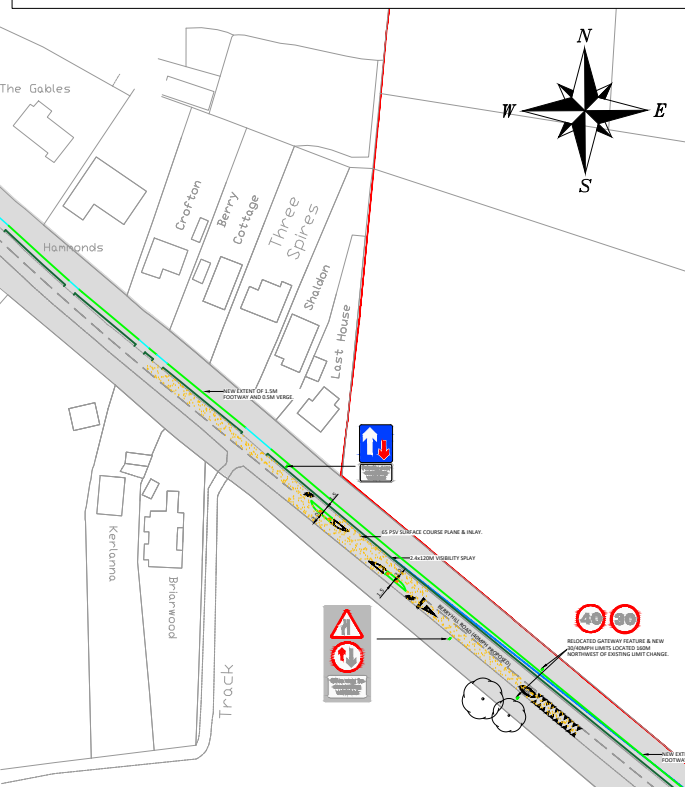
SITE ACCESS JUNCTION @ 1:1250 SCALE



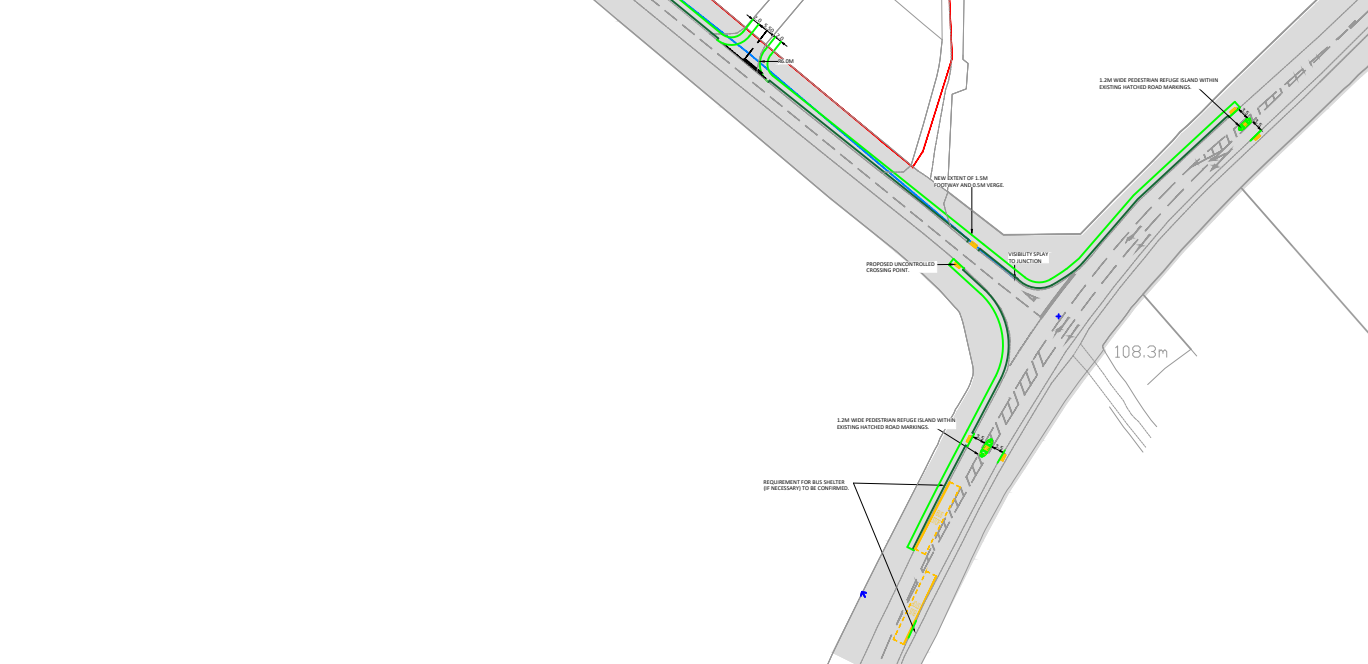
COUNCIL TRAFFIC CALMING MEASURES @ 1:1250 SCALE



1.5M FOOTWAY 0.5M VERGE/PED REFUGE WITH POTENTIAL BUS STOP LOCATIONS @ 1:1250 SCALE



PEDESTRIAN CROSSING POINTS @ 1:1250 SCALE



NOTES

THIS IS NOT A CONSTRUCTION DRAWING AND IS FOR INDICATIVE PURPOSES ONLY. IT IS SUBJECT TO FURTHER DESIGN ANALYSIS, TOPOGRAPHICAL MAPPING & HIGHWAY/THIRD PARTY LAND BOUNDARIES.

- INDICATIVE SITE BOUNDARY
- DENOTES NEW KERBS
- EXISTING ADOPTED HIGHWAY (BASED ON OS)
- DENOTES NEW 0.5M VERGE
- EXISTING DRIVEWAY

| REV. | DETAILS | DRAWN | CHECKED | DATE |
|------|---------|-------|---------|------|
| | | | | |

CLIENT:
HOLLINS STRATEGIC LAND

PROJECT:
BERRY HILL ROAD, ADDERBURY

DRAWING TITLE:
PROPOSED HIGHWAY IMPROVEMENT PLAN (ON OS BASE)

SCALES:
1:2000 @ A3

DRAWN: JC CHECKED: PJW DATE: SEP 17

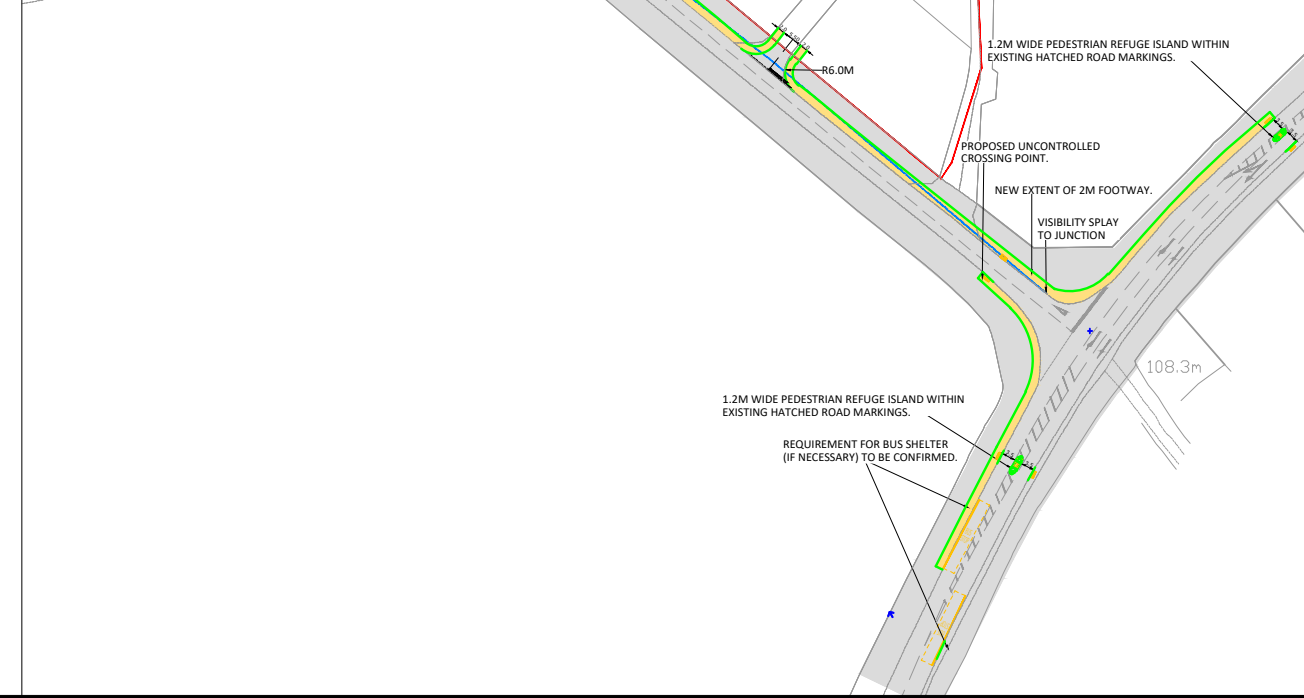
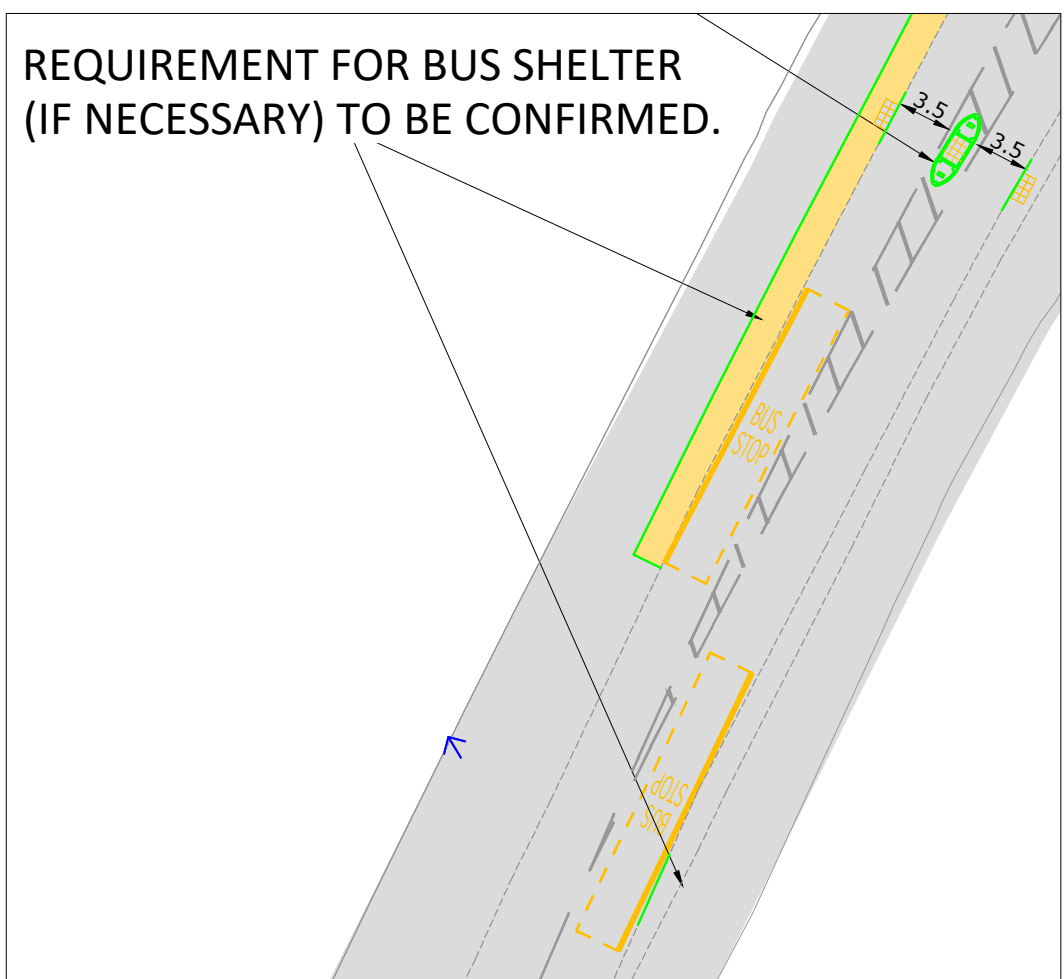
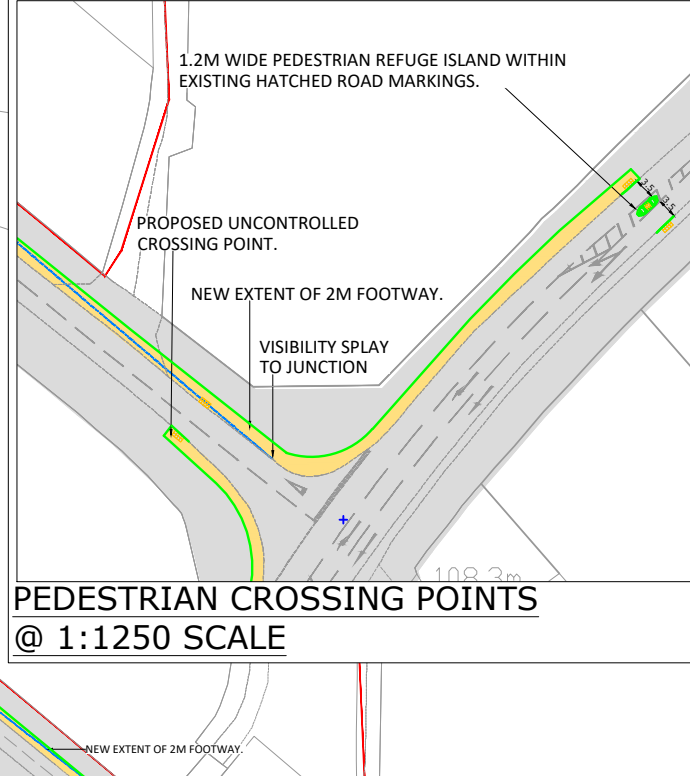
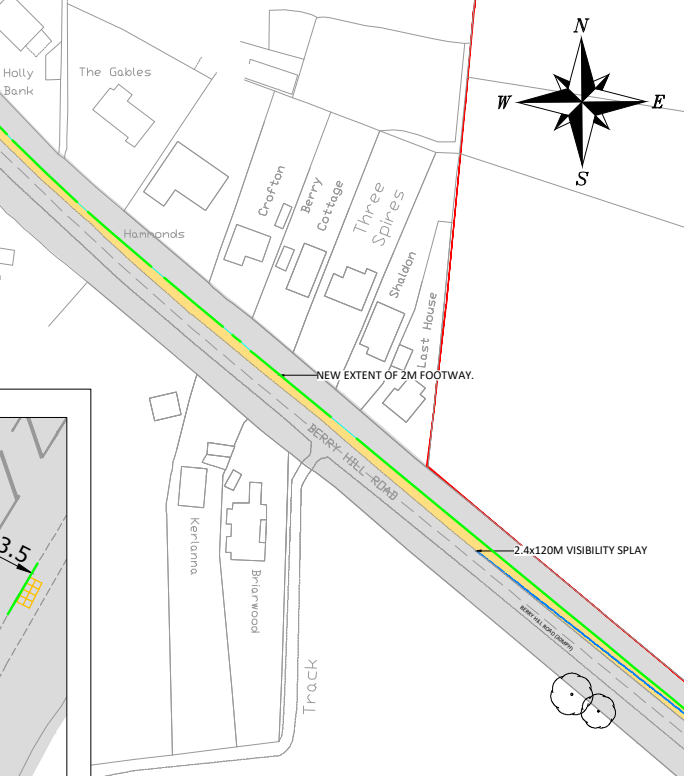
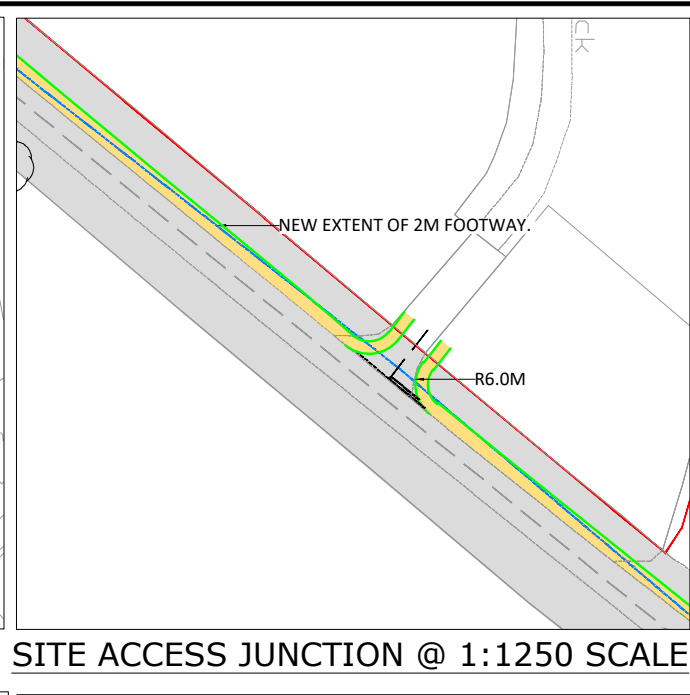
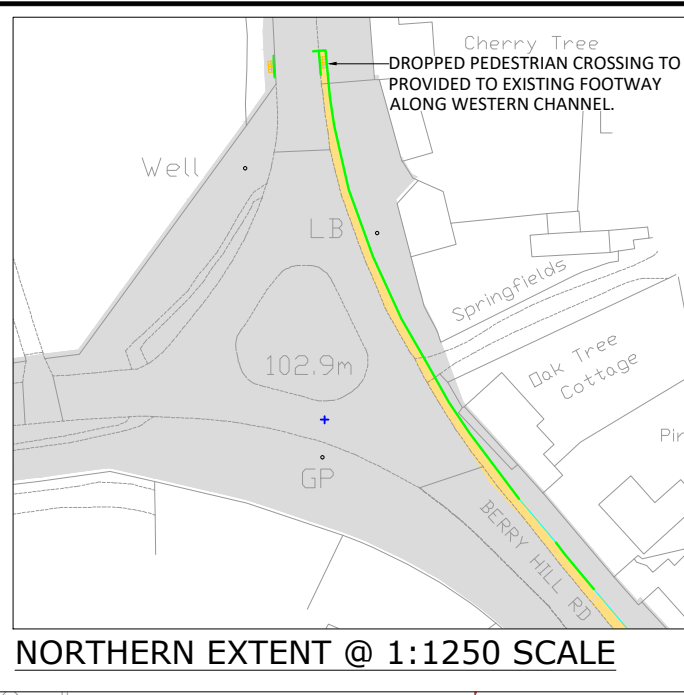
Croft Transport Planning & Design
340 Deansgate
Manchester
M3 4LY

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Tel: 0161 837 7380
Web: www.crofts.co.uk

DRAWING NUMBER: **1899-F03** REVISION: -



Appendix 3



NOTES

THIS IS NOT A CONSTRUCTION DRAWING AND IS FOR INDICATIVE PURPOSES ONLY. IT IS SUBJECT TO FURTHER DESIGN ANALYSIS, TOPOGRAPHICAL MAPPING & HIGHWAY/THIRD PARTY LAND BOUNDARIES.

- INDICATIVE SITE BOUNDARY
- DENOTES NEW KERBS
- EXISTING ADOPTED HIGHWAY (BASED ON OS)
- EXISTING DRIVEWAY
- NEW 2M FOOTWAY

| | | | | |
|---|----------------------------------|----|-----|--------|
| H | BUS STOPS MOVED SOUTH | LB | SM | JUN 20 |
| G | 1.5M FOOTWAY 0.5 VERGE ADDED | LB | JC | NOV 19 |
| F | EXTRA OS ADDED | LB | MC | OCT 19 |
| E | BASED ON OS PLAN | LB | JC | AUG 19 |
| D | BUS STOPS ADDED | LB | MC | JUL 19 |
| C | DESIGN BASED ON FULL TOPO SURVEY | JC | PJW | APR 18 |
| A | ACCESS LOCATION MOVED NORTH | JC | PJW | SEP 17 |

| | | | | |
|------|---------|-------|---------|------|
| REV. | DETAILS | DRAWN | CHECKED | DATE |
|------|---------|-------|---------|------|

CLIENT: **HOLLINS STRATEGIC LAND**

PROJECT: **BERRY HILL ROAD, ADDERBURY**

DRAWING TITLE: **PROPOSED HIGHWAY IMPROVEMENT PLAN (ON OS BASE)**

SCALES: **1:2000 @ A3**

| | | | | | |
|--------|----|----------|-----|-------|--------|
| DRAWN: | JC | CHECKED: | PJW | DATE: | SEP 17 |
|--------|----|----------|-----|-------|--------|

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| | | | |
|-----------------|----------|-----------|---|
| DRAWING NUMBER: | 1899-F01 | REVISION: | J |
|-----------------|----------|-----------|---|

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Appendix 4

Case Officer: Bob Neville

Applicant: Pembury Estates Ltd.

Proposal: Outline - Erection of 14 two-storey dwellings

Ward: Deddington

Councillors Cllr Brown, Cllr Kerford-Byrnes, Cllr Williams

Reason for Referral: Development of 10 or more dwellings

Expiry Date: 4 June 2021

Committee Date: 20 May 2021

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is part of an agricultural field located to the west of Deddington to the north of the Hempton Road. The site is relatively flat, but the land beyond the northern boundary of the site falls away into a wide valley. To the east of the site is Wimborn Close which consists of a mix of relatively modern two storey properties and has a landscaping belt adjacent to the site. Agricultural field boundaries exist to the west of the site beyond which lies further agricultural fields.
- 1.2. Deddington nursery, The Windmill Centre, recreation ground and sporting facilities exist to the south of the site beyond Hempton Road.

2. CONSTRAINTS

- 2.1. In terms of site constraints, there are records of swifts within 200m of the site and the site. The site is within an area of naturally elevated Arsenic and Radon, and also lies within an area of potentially contaminated land.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks outline planning permission for the erection of 14no two storey dwellings with access being taken off the Hempton Road to the south of the site. The application leaves all matters reserved for future consideration.
- 3.2. Whilst all matters are reserved the applicant has submitted a Site Layout drawing (drawing number: 201-304 Rev. E) and Design and Access Statement that outlines one way in which the site could be developed; with a cul-de-sac coming off the main access road.
- 3.3. The application comes following an approval outline consent 18/02147/OUT for development of 21 dwellings on the adjacent parcel of land to the south of the site. The indicative proposed layout also shows an indicative layout of proposed development approved under 18/02147/OUT, through which access would be taken via a central spine road with cul-de-sacs being taken from it. It must be highlighted that this layout is only indicative, and that further work is being undertaken on developing an acceptable layout for the earlier outline consent under its associated reserve matters application 20/03660/REM currently with the Council for

consideration. Officers have been advised that, if approved, this proposal would be brought forward by the same developers currently bringing forward the development approved under the earlier application. For ease of reference officers will refer to the development approved under 18/02147/OUT as Phase 1.

- 3.4. The site area of the application has been amended during the course of the application - expanded to include an area of land necessary to provide a drainage infiltration basin forming part of the drainage strategy for the site. This area of land and drainage feature also formed part of the site of the earlier approval.

4. RELEVANT PLANNING HISTORY

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

Application: 18/02147/OUT Permitted 6 May 2020

Outline planning application for up to 21 dwellings comprising 1, 2, 3 and 4 bedroom dwellings together with access, garaging and landscaping (all matters reserved except the principal means of access from Hempton Road)

Application: 20/03660/REM Under consideration

Reserved matters application to 18/02147/OUT - Erection of 21 dwellings (consideration of Appearance, Landscaping, Layout and Scale)

5. PRE-APPLICATION DISCUSSIONS

- 5.1. No formal 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 **25 November 2020**, although comments received after this date and before finalising this report have also been taken into account.

- 6.2. A letter on behalf of residents (4 households) within Wimborn Close in objection to the proposals and a further email of comment on behalf of 'Cherwell Swifts' has been received during. The comments raised by third parties are summarised as follows:

- Wimborn Close should remain as a close with no access through to the proposed development.
- Comments made in relation to the upkeep of the play area and potential for anti-social behaviour.

- 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. DEDDINGTON PARISH COUNCIL: **No objection**, subject to appropriate provision of open space within the development area.

OTHER CONSULTEES

- 7.3. ARBORICULTURAL OFFICER: **No objections subject to conditions**, securing an appropriate tree condition survey, Arboricultural impact assessment, and Arboricultural method statement all to BS5837 standard.
- 7.4. BUILDING CONTROL: Proposals will require a Building Regulations approval at a later stage.
- 7.5. CDC LAND DRAINAGE: **No comments** to make.
- 7.6. ECOLOGY: No comments received.
- 7.7. ENVIRONMENT AGENCY: **No comments** to make on the application.
- 7.8. ENVIRONMENTAL HEALTH: **No objections subject to conditions**, securing: appropriate assessment of potential land contamination; an appropriate Construction Environment Management Plan (CEMP), to ensure the amenities of local residents is not adversely affected during construction; and details of infrastructure for electrical vehicle (EV) charging to be included.
- 7.9. LANDSCAPE SERVICES: **No objections subject to condition** securing an appropriate landscaping scheme, and further a financial contribution for its to improve off-site play area facilities.
- 7.10. LEAD LOCAL FLOOD AUTHORITY (LLFA): **No objections subject to conditions**, securing specific details of the proposed drainage scheme and confirmation of implementation.
- 7.11. LOCAL HIGHWAYS AUTHORITY (OCC): **No objections** subject to standard conditions in respect of securing a Construction Traffic Management Plan (CTMP) and details of Travel Information Packs for potential future occupants, and financial contributions in respect highway works and public transport services.
- 7.12. PLANNING POLICY: **No objection** to the principle of residential development on this site. However, detailed consideration of design, layout and other technical matters is required.
- 7.13. PUBLIC ART: No comments received.
- 7.14. RECREATION AND LEISURE: **No objections**. Request contributions towards off-site outdoor and indoor sports facilities and community facilities.
- 7.15. STRATEGIC HOUSING: **No objection**. There is a requirement for 5 units to be affordable. Suggests the following mix:
Affordable rented units:

- x 2 bed 4-person house of 850sqft each
- x 3 bed 5-person house of 1,001sqft each

Shared ownership:

- 1 x 3 bed 5-person house of 1,001sqft

Parking should be provided and 50% of dwellings should meet the Regulations Requirement M4(2) Category 2: Accessible and Adaptable Dwellings requirement. Additionally, dwellings **must** comply with the DCLG Technical housing standards – nationally described space standard.

7.16. THAMES WATER: **No objections.**

7.17. WASTE & RECYCLING: No comments received.

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 2015')

- 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 – Brownfield land and Housing Density
- BSC4: Housing Mix
- 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
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems (SuDs)
- 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
- Villages 1: Village Categorisation
- Villages 2: Distribution Growth Across the Rural Areas
- INF1: Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES ('CLP 1996')

- H18: New dwellings in the countryside
- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- ENV1: Environmental pollution
- ENV12: Potentially contaminated land

8.3. Other Material Planning Considerations:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Annual Monitoring Report (AMR) 2020

9. APPRAISAL

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

- Principle of development
- Landscape and visual impact
- Site layout and design principles
- Highways
- Residential amenity
- Flood Risk and drainage
- Ecology
- Infrastructure
- Other matters

Principle of Development

Policy Context

- 9.2. 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. The Development Plan for the District comprises the adopted Cherwell Local Plan 2011-2031 and the saved policies of the Cherwell Local Plan 1996.
- 9.3. In determining the acceptability of the principle of new dwellings regard is paid to Government guidance contained within the NPPF. This explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- 9.4. Policy PSD1 contained within the CLP 2015 echoes the NPPF's requirements for 'sustainable development' and that planning applications that accord with the policies in the Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise.
- 9.5. The CLP 2015 seeks to allocate sufficient land to meet District Wide Housing needs. The overall housing strategy is to focus strategic housing growth at the towns of Banbury and Bicester and a small number of strategic sites outside of these towns. With regards to villages, the Local Plan notes that the intention is to protect and enhance the services, facilities, landscapes and natural and historic built environments of the villages and rural areas. It does however advise that there is a need within the rural areas to meet local and Cherwell-wide needs.

- 9.6. Cherwell's position on five year housing land supply is reported in the Council's 2020 Annual Monitoring Report (AMR). The 2020 AMR demonstrates that the District presently has a 4.7 year housing land supply for the period 2021-2026. An additional 509 homes would need to be shown to be deliverable within the five year period to achieve a five year supply as required by the NPPF.
- 9.7. Policy Villages 1 of the CLP 2015 provides a framework for housing growth in the rural areas of the district and groups villages into three separate categories (A, B and C), with Category A villages being considered the most sustainable settlements in the District's rural areas which have physical characteristics and a range of services within them to enable them to accommodate some limited extra housing growth. Deddington is a Category A village.
- 9.8. In order to meet the areas housing needs Policy Villages 2 of the CLP 2015 states that: *"A total of 750 homes will be delivered at Category A villages. This will be in addition to the rural allowance for small site 'windfalls' and planning permissions for 10 or more dwellings as at 31 March 2014"*. This Policy notes that sites will be identified through the preparation of the Local Plan Part 2, through the preparation of the Neighbourhood Plan where applicable, and through the determination of applications for planning permission.
- 9.9. Policy Villages 2 then sets out that when identifying and considering sites, particular regard will be given to the following criteria:
- *"Whether the land has been previously developed land or is of less environmental value;*
 - *Whether significant adverse impact on heritage and wildlife assets could be avoided;*
 - *Whether development would contribute in enhancing the built environment;*
 - *Whether best and most versatile agricultural land could be avoided;*
 - *Whether significant adverse landscape impacts could be avoided;*
 - *Whether satisfactory vehicular and pedestrian access/egress could be provided;*
 - *Whether the site is well located to services and facilities;*
 - *Whether necessary infrastructure could be provided;*
 - *Whether land considered for allocation is deliverable now or whether there is a reasonable prospect that it could be developed within the plan period;*
 - *Whether land the subject of an application for planning permission could be delivered within the next five years; and*
 - *Whether development would have an adverse impact on flood risk."*

Assessment

- 9.10. The site is not allocated for development in any adopted or emerging policy document forming part of the Development Plan and the site sits outside the built up limits of the village given its physical and visual relationship to the existing built form.
- 9.11. The Council's housing land supply position means that under paragraph 11d of the NPPF the policies in the development plan relating to housing provision are to be considered out of date. This includes Policy Villages 1 and saved Policy H18, and the weight to be afforded these policies is therefore reduced. Where policies are out-of-date, there is a presumption within the NPPF of granting permission for sustainable forms of development unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 9.12. Deddington is recognised as a 'Category A' village and is one of the larger villages in the District with a relatively wide range of services and facilities compared to other Category A settlements. It has a relatively regular bus service (S4 route – approximately hourly), which runs between Banbury and Oxford. Overall, it is therefore considered to be one of the more sustainable Category A villages.
- 9.13. The acceptability of the proposal therefore needs to be tested against Policy Villages 2 of the CLP 2015 (as set out above), as well as other material planning considerations. However, in the first instance it is important to consider the matter of scale and quantity of development, and in particular whether the proposal is in accordance with the overarching housing strategy of the CLP 2015.
- 9.14. The Council's AMR 2020 identifies that in the 12 months to 31 March 2020 there were 144 dwellings completed at Category A villages that contribute to the Policy Villages 2 requirement of 750 dwellings. There are also 193 dwellings under construction from the supply of permitted sites. Between 1 April 2014 and 31 March 2020 there were a total of 415 net housing completions on the above sites. This equates to 55.3% of the total requirement of 750 dwellings. These sites are fully committed to help deliver the Policy Villages 2 requirement.
- 9.15. Once those houses have been completed on which there were commencements at 31 March 2020 the Council will have delivered 81% of the PV2 target, and officers are aware that development has commenced at sites that would deliver a further 136 dwellings (66 at Launton, 40 at Milcombe, 20 at Weston on the Green, and 10 at the British Waterways site in Kidlington).
- 9.16. The Council is therefore well on the way to delivering the total of 750 dwellings set out at Policy Villages 2. Inspectors' decisions at Launton, Tappers Farm and Sibford Ferris have found that there could be demonstrable harm from exceeding delivery of 750 dwellings at Category A villages within the plan period.
- 9.17. However, that figure has not yet been delivered and so at this time the principle of development remains acceptable in policy terms. The proposals would assist in further meeting overall Policy Villages 2 housing requirements and could also contribute to the provision of affordable housing.
- 9.18. The NPPF places great importance on boosting the supply of homes – that it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay (NPPF, Para 59). And further, that: *'Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly'* (NPPF, Para 59).
- 9.19. As noted during the assessment and approval of the outline consent on the adjacent parcel of land the site forms part of a larger site which has been considered as having potential for residential development within the Council's Housing & Economic Land Availability Assessment 2018 (HELAA). However, whilst this notes

that there is potential for residential development at the site this is not a formal allocation under the Development Plan and is only a factor given limited weight.

- 9.20. The HELAA concluded that the site is considered suitable, available and achievable for residential development for up to 31 dwellings at a density of 20dph to reflect the surrounding areas. It is noted in the report that: *The site is visually prominent on entering the village but there is neighbouring development with an established building line to the north. The visual impacts of the development could be mitigated against by a carefully considered landscaping, design and layout, and high quality build. There is existing access available.*
- 9.21. This application, along with the existing permission for 21 homes (18/02147/OUT) will result in 25 dph. In total the site would deliver 35 homes (21 plus 14). This density would need to be considered in relation to the surrounding properties and densities.
- 9.22. Policy Villages 2 also requires that regard be had to the access to services and facilities. The application site is located on the very western edge of the village, approximately 800 metres from the Market place where numerous services and facilities exist. The bus stops are also located a similar distance. Whilst it is recognised this distance is not ideal in regard to access to services and facilities, given that the site is located in a village with a relatively high level of service provision and relatively regular public transport, and the fact that walking routes to the village centre is good with street-lit footways, this is considered to be acceptable.

Conclusion

- 9.23. Overall, having regard to the factors above it is considered that the principle of this scale of growth could be acceptable on this site in Deddington in the context of the Council's housing strategy and the Local Plan. The development would provide a positive contribution towards the Council's housing land supply and provision of affordable housing, within a sustainable location where residential development has previously been accepted. This, however, is subject to the proposal being assessed against the other relevant criteria of Policy Villages 2 and the other relevant policies and guidance, which is discussed below.

Landscape and Visual Impact

Policy context

- 9.24. The Government attaches great importance to the design of the built environment within the NPPF. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 9.25. These aims are also echoed within Policy ESD15 of the CLP 2015 which looks to promote and support development of a high standard which contributes positively to an area's character and identity by creating or reinforcing local distinctiveness, stating that: *"New development proposals should respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly designed active public frontages"*.
- 9.26. Saved Policy C28 of the CLP 1996 states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the context of that development. Further, saved

Policy C30 of CLP 1996 states control will be exercised to ensure that all new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.

- 9.27. Policy ESD13 of the CLP 2015 states that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not normally be permitted if they would cause undue visual intrusion into the open countryside, cause undue harm to important natural landscape features and topography, be inconsistent with local character, or impact on areas judged to have a high level of tranquillity.
- 9.28. Further as noted above, Policy Villages 2 of CLP 2015 states that in identifying site, particular regard will be given to:
- Whether land has been previously developed land or is of less environmental value;
 - Whether development would contribute in enhancing the built environment
 - Whether significant adverse landscape and impacts could be avoided
- 9.29. The Cherwell Residential Guide SPD (2018) builds on the above policies and provides a framework to deliver high quality locally distinctive development.

Assessment

- 9.30. The application site is relatively flat and is separated from the adjacent development in Wimborn Close by a landscaping belt so that the existing development does not present a hard built edge to the village. The land further to the north of the site is agricultural and falls into a wide valley with the River Swere and is much more exposed in landscape terms than the application site, which is located to the south of the valley on the plateau. To the west of the site the land gently rises towards Hempton and is in agricultural use with medium to large sized fields. The landscape is relatively open with long ranging open views north.
- 9.31. The application is accompanied by a Landscape and Visual Impact Assessment prepared by Pegasus Group. This outlines the site is located within the Ironstone Hills and Villages character area within the Councils Landscape Character Assessment (1995) where the main features are the complex topography, the style of vernacular buildings and the iron age hill forts and sunken lands. Being predominantly agricultural land devoid of built form the application site itself has few features which are characteristic of the area and the site would be seen on the context of the built form of Deddington, and development to brought forward under Phase 1.
- 9.32. The proposed development would change the landscape character of the site from agricultural to residential; compounding the change that would result from the earlier approval. Given the topography of the site and the proposal would have a minor to moderate impact on the character area. Within the Oxfordshire Wildlife and Landscape Study (OWLS) the site is part of the Upstanding Village landscape type. Key characteristics are steep-sided undulating land form, well defined geometric patterns of fields with hedgerows and a strong settlement pattern of compact nucleated villages of varying size with little dispersal into the wider countryside. Overall, it is concluded the effect on this landscape type would be minor to moderate. The Landscape Officer concurs with the overall assessment and conclusions of the LVIA.

- 9.33. In terms of visual impact, the proposal would result in further development of a green field site and would extend the built up limits of Deddington. Deddington is an historic and attractive village. That said, the site is located on the western edge of Deddington where much of the more modern development in the village has taken place along Hempton Road, with further development coming forward under Phase 1. This includes Wimborn Close which also provides for some depth of development in the locality and the proposals would sit at a similar depth from the Hempton Road. As noted during the assessment of the Phase 1 this edge of the village is less sensitive to change than many of the more historic edges of the village where development is likely to be less appropriate given the more historic constraints of the existing settlement given previous more modern developments. In this respect the proposed development relates acceptably to the existing pattern of development in this part of Deddington.
- 9.34. Given the location of the site the visual impacts of the development would be relatively localised. The proposals would sit behind the Phase 1 and views of the site would be screened from the Hempton Road. An appropriate landscaping would further assist in helping to reduce the visual impacts and such details would be secured at the detailed application stage.

Conclusion

- 9.35. Officers consider that, whilst the proposals would result in the loss of part of the existing agricultural field and a greenfield site, any harm that would be caused to the wider landscape setting would not be so significant that it would warrant a reason to refuse the application and that such impacts could be largely be mitigated through the introduction of an acceptable landscaping scheme.

Site Layout and Design Principles

Policy Context

- 9.36. Policy ESD15 of the CLP 2015 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 fundamental to what the planning and development process should achieve.
- 9.37. BSC2 of the CLP 2015 states that new housing should be provided on net development areas at a density of at least 30 dwellings per hectare unless there are justifiable reasons to lower the density.
- 9.38. The Council's Design Guide 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 the use of traditional building materials and detailing and form that respond to the local vernacular.

Assessment

- 9.39. The application is in outline with all matters reserved for future consideration. The application is accompanied by an indicative layout within the Design and Access Statement, which indicates one way in which the site could be developed; showing a cul-de-sac arrangement coming off the main access road.

- 9.40. The submitted indicative layout shows 14no units. While some principles within the proposed indicative layout are considered to be appropriate for the site, there are concerns regarding other elements, which overall represents poor design that would be contrary to local and national planning policy; with particular concerns with regards to appropriate separation distances and potential overlooking issues. Further consideration will also need to be given as to how the proposals would integrate with the development to the south.
- 9.41. Overall, it is considered that the layout presented would result in an unacceptable form of development. However, it is recognised that the application is made in outline with all matters reserved. Therefore, the layout, scale and appearance of the development would be considered at a later stage. Given the relatively low density of the scheme and the not irregular shape of the site officers are satisfied that a revised layout could be negotiated at a reserved matters stage to ensure that the proposed development achieved a high quality and locally distinctive scheme. This is a similar position that was adopted on Phase 1 and such matters are currently being resolved through the reserve matters application 20/03660/REM. As with the earlier permission it is recommended that an informative be placed on any approval raising concerns regarding the layout.
- 9.42. The density of the scheme is lower than the 30 dwellings per hectare sought under Policy BSC3 of the CLP 2015. However, in this case, given the edge of settlement location of the development and the need for a robust landscape strategy to the western and northern boundaries of the site, the lower density is considered, on balance, to be justifiable.
- 9.43. The development is at a level that would trigger a need for a LAP feature to be included. There is no on-site play area as the 14no. dwellings would not allow enough space to achieved this. However, an existing play area east of the development requires refurbishment to improve its play potential for children of 2 -6 years. It is considered that local plan requirement for a local area of play can be provided off-site with a financial contribution with line with the Developer Contributions SPD.

Conclusion

- 9.44. Officers have concerns over the proposed layout and design principles for the development as indicated within the current submission. However, officers are satisfied that given the context and arrangement of the site that an acceptable layout could be negotiated, and that such matters would be fully considered as part of any such reserved matters application.

Highways

Policy context

- 9.45. The NPPF (Para. 108) states that the planning system should actively manage patterns of growth in support of the achievement of promoting sustainable transport. However, notes that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.
- 9.46. The NPPF (Para. 108) advises that in assessing specific applications for development, it should be ensured that:
- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;

- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

Both Policies ESD15 and SLE4 of the CLP 2031 reflect the provision and aims of the NPPF. Policy ESD15 of the CLP 2031 states that: *“New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions”*; whilst Policy SLE4 states that: *“All development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve*

Assessment

- 9.47. Given that all matters are reserved for future consideration, including access and layout, it is only the principle of the development and associated potential transport related issues that can be considered at this stage. However, the applicants have submitted illustrative layout plans which shows an indicative access which allows for an appropriate assessment of these potential transport impacts.
- 9.48. The Local Highway Authority (LHA) raises no objections to the development subject to conditions and contributions to be secured through S106 Agreement.
- 9.49. The traffic impact generated by the proposed development is not considered to have a severe impact on the existing highway network given the scale of the development and the nature of the roads. The submission indicates that the development would be served by an access road taken from Hempton Road through the development approved under Phase 1, with the route being on the same alignment and utilising the access arrangements as this earlier approval. However, full details of the site layout, access and parking arrangements would be considered under future reserved matters applications.
- 9.50. The LHA has requested a contribution of £14,518 for enhancement to the bus service in the village which connects to Banbury and Oxford, to a half-hourly daytime frequency, which would help in the village being more accessible by a sustainable mode of transport as encouraged by the NPPF and this would be secured through a Section 106.

Conclusion

- 9.51. The LHA advises that the proposals are acceptable in terms of highways safety and potential impacts on the local road network and officers see no reason to disagree with the LHA’s assessment.

Impact on neighbouring amenity

- 9.52. Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. These provisions are echoed in Policy ESD15 of the CLP 2015 which states that: *‘new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space’*.

Assessment

- 9.53. The application is in outline only. Any detailed proposals would need to have due regard to requirements of Section 6 of the Residential Design Guide SPD with regard to appropriate standards of amenity for both existing and future residents. Appropriate positioning and scale of dwellings, boundary treatments and the nature of such treatments could be given due consideration at reserved matters stage.
- 9.54. The proposed development would be located away from surrounding residential properties. The existing properties which would be most impacted upon by the proposed development would be the properties to the east of the site in Wimborn Close. These properties are separated by the application site by landscaping belt, play area and a road and would be in excess of 35 metres from the proposed development.

Conclusion

- 9.55. Given the above, officers are satisfied that the development can be made acceptable in residential amenity terms, both for existing residents neighbouring the site and future occupiers, with acceptable details to be secured at reserved matters stage.

Affordable Housing and Housing Mix

Policy

- 9.56. Policy BSC3 of the CLP 2015 states that development on the site should make provision for 35% affordable housing with 70% of the affordable housing to be affordable rent and 30% as intermediate homes such as shared ownership. Policy BSC4 states that new development will be expected to provide a mix of home to meet current and expected future demand creating socially mixed and inclusive communities.

Assessment

- 9.57. The applicant has committed to providing 35% affordable housing on the site in line with Policy BSC3. The detailed housing mix would be determined at reserved matters stage and at the current time the plans are only indicative. The housing officer has raised no objection to this and has provided a suggested mix. Full details of the mix of the market and affordable housing would be determined at reserved matters stage. The affordable housing would need to be secured by a legal agreement.

Flooding Risk and Drainage

- 9.58. Policy ESD6 of the CLP 2015 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding.
- 9.59. Policy ESD7 of the CLP 2015 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District.

Assessment

- 9.60. The current is situated wholly within Flood Zone 1 which is land which has a less than 1 in 1,000 annual probability of river flooding.

- 9.61. The applicant has submitted a Technical Note: Drainage Statement report (ref.: 23933-01-TN-02 REV C) which outlines a potential drainage strategy for the site including an infiltration basin feature in the south east area of the site (also part of the approved scheme 18/02147/OUT) which would then be discharged into the underlying bedrock through infiltration. The Technical Note has been updated during the course of the application in response to comments made by the Lead Local Flood Authority (LLFA).
- 9.62. The report demonstrates the feasibility of a system with sufficient capacity for the 1 in 100 year storm event (plus a 40% allowance of climate change). The LLFA whilst originally objecting have subsequently withdrawn their objection in light of revised information received; considering that the general principles of the drainage strategy to be largely acceptable. As with Phase 1 the LLFA notes that the site lies over a secondary aquifer and the site may be subject to contamination which may impact on the use of infiltration.
- 9.63. As with the Phase 1 the Council's Environmental Protection Officer has again indicated that full ground investigation needs to be undertaken on the site as part of a planning condition. Officers again consider that if this is undertaken prior to the submission of the reserved matters there can be a greater understanding of the potential for contamination to impact on the drainage arrangement and considered as part of the reserved matter, whether that be through remediation of the contamination or through an alternative method of drainage.
- 9.64. Thames Water has raised no objection to the development in regard to foul water sewage or water network provision and the development is therefore considered to be acceptable in that regard.

Conclusion

- 9.65. Officers consider that, in light of there being no technical objections from the LLFA to the general principles of the proposed drainage strategy, and subject to appropriate conditions securing an appropriate detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development and an acceptable sewage drainage strategy, the proposals could be considered acceptable in terms of flood-risk and drainage.

Ecology

Legislative context

- 9.66. 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.
- 9.67. 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.

- 9.68. 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.
- 9.69. 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.
- 9.70. 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

- 9.71. 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.
- 9.72. 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.
- 9.73. Policy ESD10 of the CLP 2015 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.

- 9.74. 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.
- 9.75. 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

- 9.76. The current application has been accompanied by an Ecological Appraisal (EA) by Aspect Ecology dated June 2020. Whilst no formal comments have been received from the Council's Ecologist (CE) during the current application it is noted that no significant concerns were raised in respect of the proposals (18/02147/OUT) on the adjacent site.
- 9.77. The current site has similar characteristics to the Phase 1 site and is not subject to any statutory or non-statutory designations. The EA indicates that there are no significant protected species issues on this site and suggests a number of mitigation measures within the recommendations of the report. The recommendations largely reflect those considered acceptable by the CE during Phase 1. These are again all appropriate including those to avoid disturbance to mammals, reptiles and birds. A separate lighting strategy would be required which can be secured through condition.
- 9.78. The proposals would, however, result in the loss of some habitat and whilst there are a number of Biodiversity Enhancement measures recommended within the EA it is not clear whether there will be an overall net gain on site for biodiversity. It is therefore recommended that such matters be conditioned as part of any such approval.

Conclusion

- 9.79. Officers are satisfied that, on the basis of evidence within the submitted EA and there being no objection from the Council's Ecologist, and subject to conditions, the welfare of any European Protected Species found to be present at the site and surrounding land would 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 and that proposals would accord with the Development Plan Policies identified above.

Impact on Local Infrastructure

Policy Context

- 9.80. Policy INF1 of the CLP 2015 states that: *"Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities."*
- 9.81. Policy BSC11 of the CLP 2015 states that: *"Development proposals will be required to contribute to the provision of open space, sport and recreation, together with*

secure arrangements for its management and maintenance. The amount, type and form of open space will be determined having regard to the nature and size of development proposed and the community needs generated by it. Provision should usually be made on site in accordance with the minimum standards of provision set out in 'Local Standards of Provision – Outdoor Recreation'. Where this is not possible or appropriate, a financial contribution towards suitable new provision or enhancement of existing facilities off site will be sought, secured through a legal agreement." Policy BSD12 requires new development to contribute to indoor sport, recreation and community facilities.

- 9.82. The Developer Contributions Supplementary Planning Document (SPD) setting out its position in respect of requiring financial and on site contributions towards ensuring the necessary infrastructure or service requirements are provided to meet the needs of development, and to ensure the additional pressure placed on existing services and infrastructure is mitigated. This is the starting point for negotiations in respect of completing S106 Agreements.

Assessment

- 9.83. Where on and off-site infrastructure/measures need to be secured through a planning obligation (i.e. legal agreement) they must meet statutory tests set out in regulation 122 of the Community Infrastructure Ley (CIL) Regulations 2010 (as amended). These tests are that each obligation must be:

- a) Necessary to make the development acceptable in planning terms;
- b) Directly related to the development;
- c) Fairly and reasonably related in scale and kind to the development.

- 9.84. Where planning obligations do not meet the above statutory tests, they cannot be taken into account in reaching a decision. In short, these tests exist to ensure that local planning authorities do not seek disproportionate and/or unjustified infrastructure or financial contributions as part of deciding to grant planning permission. Officers have had regard to the statutory tests of planning obligations in considering the application and Members must also have regard to them to ensure that any decision reached is lawful.

- 9.85. Having regard to the above, in the event that Members were to resolve to grant planning permission, the following items would in officers' view need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts:

Cherwell District Council

- Provision of commuted sum of £19,973.10 in lieu of Open Space Provision
- Provision of a commuted sum of £32,296.04 to the upgrading of local play equipment at Wimborn Close.
- Off-site outdoor sports facilities capital provision – improvement of sports provision within Deddington - £33,568.50.
- Off-site indoor sports facilities – Towards the replacement of the main hall floor at The Windmill Centre and sports equipment - £13,895.66.
- Community hall facilities - £19,036.94 – To expand and/or enhance Windmill Community Centre.
- £106 per dwelling for bins
- Affordable housing provision – 35%

Oxfordshire County Council

- £14,518 – Public transport to upgrading of bus frequency to Oxford and Banbury
- £4,500 – Supply and installation of a solar-powered Vehicle Activated Sign

Conclusion

- 9.86. A number of items would need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts.

Other Matters

- 9.87. Saved Policy ENV12 of the CLP 1996 sets out that development on land which is known or suspect to be contaminated will only be permitted if
- (i) Adequate measures can be taken to remove any threat of contamination to future occupiers of the site.
 - (ii) The development is not likely to result in contamination of surface or underground water resources
 - (iii) The proposed use does not conflict with other policies in the plan.
- 9.88. The site is on land which is potentially contaminated and the Council's Environmental Protection Officer has therefore recommended that phased contaminated land conditions need to be attached should permission be granted. Officers agree with this assessment.
- 9.89. Regarding air quality, the Council's EPO requests that ducting is provided for the future installation of Electric Vehicle charging infrastructure in order to make resident parking places EV ready for future demand. The NPPF and Policies SLE4 and ESD1 of the CLP 2015 encourage and support the incorporation of measures into new development that promote more sustainable forms of transport. The provision of EV charging infrastructure is also reflected in the Council's Infrastructure Delivery Plan. It is considered reasonable and necessary for this to be secured through a condition of any permission given.
- 9.90. Policy ESD1 of the CLP 2015 states that measures should be taken to mitigate the impact of development within the District on climate change, and Policy ESD2 of the CLP 2015 seeks to achieve carbon emission reductions. Policy ESD3 of the CLP 2015 encourages sustainable construction methods. The reference to allowable solutions in Policy ESD2 and 'zero carbon' are no longer being pursued by the government so are no longer relevant. However, the water usage requirements of ESD3 are still required to be met. In regard to energy efficiency the Council now seeks to secure in excess of that required under the 2013 Building Regulations. These could be controlled through a condition.
- 9.91. In relation to the best and most versatile agricultural land, the site falls within grade 3; therefore, it is considered to be the moderate quality agricultural land. The development would result in the loss of this land for agriculture but this harm is considered to be relatively limited given the quality of the land and size of the site.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 advises that the three dimensions to sustainable development (economic, social and environmental), which are interdependent; need to be pursued in mutually supportive ways.

- 10.2. Government guidance within the NPPF supports the plan-led system and advises that applications that accord with an up-to-date plan should be approved without delay.
- 10.3. In reaching an informed decision on planning applications there is a need for the Local Planning Authority to undertake a balancing exercise to examine whether the adverse impacts of a development would be outweighed by the benefits such that, notwithstanding the harm, it could be considered sustainable development within the meaning given in the NPPF. In carrying out the balancing exercise it is, therefore, necessary to take into account policies in the development plan as well as those in the NPPF. It is also necessary to recognise that Section 38 of the 1990 Act continues to require decisions to be made in accordance with the development plan and the NPPF highlights the importance of the plan led system as a whole.
- 10.4. The site is unallocated in the adopted CLP 2015. Deddington is designated a Category A Village under Policy Villages 1 of the CLP 2015 and as such suitable for minor development within its built up limits. Policy Villages 2 supports development of sites for more than 10 homes at Category A villages in certain circumstances. 750 homes are to be delivered across these villages. The Council has yet to deliver 750 homes under PV2. When considering sites under this Policy several criteria apply relating to the site's environmental value and impact and deliverability. It is considered that the site would broadly comply with these criteria.
- 10.5. Having regard to the Council's current housing land supply position, i.e. less than a 5-year housing land supply, Paragraph 11d of the NPPF is engaged; with a presumption of granting planning permission unless such would cause conflict with other policies and would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 10.6. The proposals are considered acceptable in terms of transport, and neighbour amenity. It is further considered that an acceptable drainage solution is achievable at the site that would ensure that flood-risk is not exacerbated. It is acknowledged that the proposals would result in the loss of a 'Greenfield' site and agricultural land, but that such impacts could be largely be mitigated through the introduction of an acceptable landscaping scheme.
- 10.7. The development would make a valuable contribution to housing delivery (including affordable housing) – significant weight should be attached to this benefit. There would also be some economic benefit in the support of construction jobs and spending in the area those future residents would bring about – this is afforded minor to moderate weight.
- 10.8. It is considered that the harm identified and the proposal's limited conflict with development plan policies would not outweigh these benefits. Given the above assessment and in light of current guiding national and local policy set out in the report, the officers consider that the proposal would amount to sustainable development for which Government policy sets a presumption in favour and is therefore recommended for approval.

11. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO **GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW** (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) **AND THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106** OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND

COMPENSATION ACT 1991, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):

- a. Provision of commuted sum of £19,973.10 in lieu of Open Space Provision
- b. Provision of a commuted sum of £32,296.04 to the upgrading of local play equipment at Wimborn Close.
- c. Off-site outdoor sports facilities capital provision – improvement of sports provision within Deddington - £33,568.50.
- d. Off-site indoor sports facilities – Towards the replacement of the main hall floor at The Windmill Centre and sports equipment - £13,895.66.
- e. Community hall facilities - £19,036.94 – To expand and/or enhance Windmill Community Centre.
- f. £106 per dwelling for bins
- g. Affordable housing provision – 35%
- h. £14,518 – Public transport to upgrading of bus frequency to Oxford and Banbury
- i. £4,500 – Supply and installation of a solar-powered Vehicle Activated Sign

FURTHER RECOMMENDATION: THE STATUTORY DETERMINATION PERIOD FOR THIS APPLICATION EXPIRES ON 04 JUNE 2021. IF THE SECTION 106 AGREEMENT/UNDERTAKING IS NOT COMPLETED AND THE PERMISSION IS NOT ABLE TO BE ISSUED BY THIS DATE AND NO EXTENSION OF TIME HAS BEEN AGREED BETWEEN THE PARTIES, IT IS FURTHER RECOMMENDED THAT THE ASSISTANT DIRECTOR FOR PLANNING AND ECONOMY IS GIVEN DELEGATED AUTHORITY TO REFUSE THE APPLICATION FOR THE FOLLOWING REASON:

1. In the absence of the completion of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement, the Local Planning Authority is not satisfied that the necessary infrastructure directly required both on and off site as a result of this development, in the interests of: safeguarding public infrastructure, education provision, community facilities and indoor and outdoor sports/recreation facilities; mitigating highway safety concerns; encouraging use of sustainable modes of transportation; 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, SLE4, BSC3, BSC4, BSC9, BSC10, BSC11, BSC12, VILLAGES 2, ESD1 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.

CONDITIONS

Time Limits

1. No development shall commence until full details of the layout (including the layout of the internal access roads and footpaths), scale, appearance, and landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.

Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. In the case of the reserved matters, the final application for approval shall be made not later than the expiration of three years beginning with the date of this permission.

Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

3. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended).

Plans

4. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out in broad accordance with the following plans and documents: Application form, Design and Access Statement by Pegasus Planning dated July 2020, Ecological Appraisal by Aspect Ecology dated June 2020 and drawing number: 201-305 Rev. B

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

NOTE: The illustrative layout included within the Design and Access Statement accompanying the application is not considered to create an appropriate, locally distinctive or high quality development for the site. The applicant is advised to have regard to the Council's New Residential Development Design Guide and engage in pre-application discussions with the Council regarding the 'reserved matters'.

Finished floor levels

5. No development shall take place until details of all finished floor levels in relation to existing and proposed site levels and to the adjacent buildings have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be constructed strictly in accordance with the approved levels.

Reason: To secure an acceptable standard of development that safeguards the visual amenities of the area and the living conditions of existing and future occupiers and to ensure compliance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance within Section 12 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Land Contamination Desk Study / Site Walkover

6. Prior to the submission of any reserved matters and prior to the commencement of development a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model has been carried out by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and has been submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval that it is satisfied that no potential risk from contamination has been identified.

Reason: To ensure that any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Land Contamination Intrusive Investigation

7. If a potential risk from contamination is identified as a result of the work carried out under condition 6, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Land Contamination Remediation Scheme

8. If contamination is found by undertaking the work carried out under condition 7, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Land Contamination Remediation Works

9. If remedial works have been identified in condition 8, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 8. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

Drainage

10. Notwithstanding the information submitted, development shall not begin until a detailed surface water drainage scheme for the site, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall include:

- A compliance report to demonstrate how the scheme complies with the “Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire”;
- Full micro-drainage calculations for all events up to and including the 1 in 100 year plus 40% climate change;
- A Flood Exceedance Conveyance Plan;
- Comprehensive infiltration testing across the site to BRE DG 365;
- Detailed design drainage layout drawings of the SuDS proposals including cross-section details;
- Detailed maintenance management plan in accordance with Section 32 of CIRIA C753 including maintenance schedules for each drainage element, and;
- Details of how water quality will be managed during construction

Reason: To ensure satisfactory drainage of the site and appropriate flood prevention and to comply Policy ESD 7 of the Cherwell Local Plan 2011-2031 Part 1 and with Government guidance contained within the National Planning Policy Framework.

11. Prior to first occupation, a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:

- a) As built plans in both .pdf and .shp file format;
- b) Photographs to document each key stage of the drainage system when installed on site;
- c) Photographs to document the completed installation of the drainage structures on site;
- d) The name and contact details of any appointed management company information.

Reason: To ensure satisfactory drainage of the site and appropriate flood prevention and to comply Policy ESD 7 of the Cherwell Local Plan 2011-2031 Part 1 and with Government guidance contained within the National Planning Policy Framework.

Construction Traffic Management Plan

12. Prior to commencement of the development hereby approved, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved CTMP.

Reason: In the interests of highway safety and the residential amenities of neighbouring occupiers and to comply with Government guidance contained within the National Planning Policy Framework.

Construction Environmental Management Plan

13. No development shall take until a Construction Environmental Management Plan

(CEMP) has been submitted to, and approved in writing by the Local Planning Authority. The statement shall provide for at a minimum:

- a. The parking of vehicles of site operatives and visitors;
- b. The routing of HGVs to and from the site;
- c. Storage of plant and materials used in constructing the development;
- d. Wheel washing facilities/ road sweeping;
- e. Measures to control the emission of dust and dirt during construction;
- f. Delivery and construction working hours;

The approved CEMP shall be adhered to throughout the construction period for the development.

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

Energy Statement

14. Prior to the commencement of any works associated with the construction of a dwelling, details of the means by which all dwellings will be designed and constructed to achieve an energy performance standard equivalent to a 19% improvement in carbon reductions on 2013 Part L of the Building Regulations (unless a different standard is agreed with the local planning authority) shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details and no dwelling shall be occupied until it has been constructed in accordance with the approved energy performance measures.

Reason: In the interests of environmental sustainability in construction in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance in the National Planning Policy Framework.

Biodiversity enhancement

15. Prior to the commencement of the development hereby approved including any demolition, and any works of site clearance, and as part of any reserved matters for layout and landscaping, a method statement and scheme for enhancing biodiversity on site such that an overall net gain for biodiversity is achieved, to include details of enhancement features and habitats both within green spaces and integrated within the built environment, shall be submitted to and approved in writing by the Local Planning Authority. This shall also include a timetable for provision. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.

Reason -To ensure the development provides a net gain in biodiversity in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

NOTE: It is advised that this condition include a Biodiversity Impact Assessment to show how a clear net gain for biodiversity will be achieved.

Landscape and Ecological Management Plan (LEMP)

16. Prior to the commencement of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved LEMP.

Reason -To protect habitats of importance to biodiversity conservation from any

loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Lighting strategy

17. Prior to the installation of any external lighting a full lighting strategy to include illustration of proposed light spill and which adheres to the recommendations set out in Section 6 - Mitigation Measures and Biodiversity Net Gains (MM2) of the Ecological Appraisal carried out by Aspect Ecology dated June 2020, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved document.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Travel information packs

18. Prior to first occupation the development a Travel Information Pack shall be submitted to and approved by the Local Planning Authority. Thereafter the first residents of each dwelling shall be provided with a copy of the approved Travel Information Pack.

Reason: To ensure all residents and employees are aware from the outset of the travel choices available to them, and to comply with Government guidance contained within the National Planning Policy Framework.

Water usage

19. No dwelling shall be occupied until it has been constructed to ensure that it achieves a water efficiency limit of 110 litres person/day and shall continue to accord with such a limit thereafter.

Reason - In the interests of sustainability in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Compliance with ecological appraisal

20. The development hereby approved shall be carried out strictly in accordance with the recommendations set out in Section 6 - Mitigation Measures and Biodiversity Net Gains of the Ecological Appraisal carried out by Aspect Ecology dated June 2020.

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

Electrical Vehicle Infrastructure

21. Each dwelling shall be provided with ducting to allow for the future installation of electrical vehicle charging infrastructure to serve that dwelling prior to its first occupation.

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

Planning Notes:

1. Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the

development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.

2. Your attention is drawn to the need to have regard to the requirements of UK and European legislation relating to the protection of certain wild plants and animals. Approval under that legislation will be required and a licence may be necessary if protected species or habitats are affected by the development. If protected species are discovered you must be aware that to proceed with the development without seeking advice from Natural England could result in prosecution. For further information or to obtain approval contact Natural England on 0300 060 3900.
3. Bats are a highly mobile species which move between a number of roosts throughout the year. Therefore all works must proceed with caution and should any bats be found during the course of works all activity in that area must cease until a bat consultant has been contacted for advice on how to proceed. Under the Wildlife & Countryside Act 1981 (as amended) and the Habitat and Species Regulations 2010 it is illegal to intentionally or recklessly disturb, harm or kill bats or destroy their resting places.
4. Birds and their nests are fully protected under the Wildlife and Countryside Act 1981 (as amended), which makes it an offence to intentionally take, damage or destroy the eggs, young or nest of a bird whilst it is being built or in use. Disturbance to nesting birds can be avoided by carrying out vegetation removal or building work outside the breeding season, which is March to August inclusive.
5. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx. 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

CASE

OFFICER:

Bob

Neville

Appendix 5

Case Officer: Wayne Campbell

Applicant: Greystoke Land Ltd

Proposal: Erection of up to 43 new homes, access from Station Road and associated works including attenuation pond

Ward: Deddington

Councillors: Cllr Brown, Cllr Kerford-Byrnes and Cllr Williams

Reason for Referral: 10 or more dwellings

Expiry Date: 18 May 2021

Committee Date: 17 June 2021

**SUMMARY OF RECOMMENDATION: GRANT PERMISSION SUBJECT TO
CONDITIONS AND A S106 LEGAL AGREEMENT**

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is located at the eastern end of the village of Hook Norton on Station Road, which is the main road from Hook Norton to Milcombe and Bloxham. The site measures an area of approximately 2.26 hectares and is currently used as arable farmland as part of Crushill Farm. Although the site itself is relatively flat, it sits at a considerably lower level than the adjacent Station Road, as well as the residential development at Ironstone Hollow to the west which was a housing allocation in the Rural Areas Local Plan and constructed in the 1990s on the former quarry.
- 1.2. The site is bounded by Station Road and a hedge and trees to the south, and to the west by a tree embankment along the top of which runs an undesignated track.
- 1.3. A public footpath runs to the north and western side but outside the application site. The application site forms part of a larger field and is therefore currently open to the eastern boundary. On the opposite side of Station Road is a residential development of The Grange, and The Sidings.

2. CONSTRAINTS

- 2.1. The site, which is situated beyond the existing built up limits of the village on the northern side of Station Road, but is outside the Hook Norton Conservation Area.
- 2.2. A public right of way runs along the northern edge of the site but there are no public rights of way across the site. The southern and western edge of the site are significantly lower than the adjoining land levels with a difference of around 1.8 – 2.0m.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The proposal seeks planning permission for the erection of up to 43 new homes, access from station road and associated works including attenuation pond. Vehicular access is proposed directly to Station Road from the south western corner of the site.
- 3.2. The application is made in outline, seeking approval for the principle of the development and the means of access into the site. However, the application is supported by an indicative layout plan. This indicative plan shows the proposed layout of the site providing a range of house types namely: - 10 x 2 bed house types - 27 x 3 bed house types - 6 x 4 bed house types. Of these dwellings the level of affordable units is stated as 15 dwellings on the site in the following provision, 4 x 2 bed houses types, 10 x 3 bed house types, and 1 x 4 bed house types. All dwellings are stated as being two storey in height and a mix of detached, semi-detached and terrace.
- 3.3. The layout plan also makes provision for open space; surface water attenuation pond (to restrict flows to existing greenfield run off with additional capacity provided to account for anticipated rainfall as a consequence of climate change and structural landscaping) on the boundaries of the site. In terms of density the provision of 43 dwellings on the site would, according to the applicant, equate to 20 dwellings per hectare.
- 3.4. *Timescales for Delivery:* The applicant/agent has stated in the Planning Statement that the site would fully deliver up to 43 new homes within the five years, in the event that planning permission is granted.

4. RELEVANT PLANNING HISTORY

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

14/01738/OUT: Outline – Development of 48 houses, access, open space and landscaping. Application was refused for two reasons:

1. Notwithstanding the Council's present inability to demonstrate that it has a five year housing land supply as required by paragraph 47 of the NPPF, the development of this site cannot be justified on the basis of the land supply shortfall alone. The proposal constitutes development which fails to respect the traditional settlement pattern, and extends beyond the existing built up limits of the village into the open countryside. It would by virtue of its layout form and location, together with the significant change in levels from Station Road into the site, result in a incongruous and visually intrusive form of development which would cause demonstrable harm to the visual amenities of the immediate locality and the open countryside, in particular when viewed from Council Hill, contrary to Policies C7, C8, C27, C28 and C30 of the adopted Cherwell Local Plan and Policies ESD13 and ESD16 of the Submission Local Plan and Central Government Advice within the National planning Policy Framework. Furthermore the development proposed also runs contrary to the Hook Norton Neighbourhood Plan.
2. In the absence of a satisfactory planning obligation, the Local Planning Authority is not convinced that the infrastructure and affordable housing directly required as a result of this scheme will be delivered. This would be contrary to Policy H5 of the adopted Cherwell Local Plan and Policy INF1 of the Submission Local Plan and Government guidance within the National Planning policy Framework.

5. PRE-APPLICATION DISCUSSIONS

- 5.1. The application was the subject of a pre-application request, however, the application was submitted before a response was provided as the dead line to respond had expired. As such no advice has been provided to the applicant prior to the submission of this application.

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, consultation with statutory and non-statutory consultees 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 **23 March 2021**, although comments received after this date and before finalising this report have also been taken into account.

- 6.2. A total of 30 letters of objection have been received from local residents. The comments raised by third parties are summarised as follows:

- Site encroaches into open countryside and is not allocated either through the Local or Neighbourhood Plan, and *the proposed development is contrary to plan policies and risk losing the village feel*
- No assessment made of the accumulative impact of the recently built developments on the village
- *According to your published "Residential Completions & Permissions at 31/03/2020 (net) (updated 15/07/2020)", from 2011 to 31 March 2020 Hook Norton had a total increase of 163 completed dwellings, or just over 5% of the total from all the villages in the district (3042 homes).*
- Question how access would be formed where there is a steep drop from road to site level – only a simple plan is provided - no sections or detail
- The roads are in poor condition and *adding at least another 100 cars into the village is not sensible (based on each household having 2 cars)*
- *Transport Assessment is based on data collected in a school holiday period which is not representative*
- *Station Road is a busy road and unsuitable for heavier traffic flow as it narrows by the bridge, existing road through the village is very congested now without more traffic flow and is full of dangerous potholes. Before anymore properties are built the existing roads need widening and re-surfacing to make them safe.*
- *The only pavement from / to the village and the existing residential area is on the same side of the road as the proposed access; this would mean all pedestrian traffic would have to cross the proposed vehicular access point.*
- *Access would have severe adversely affect on trees and field boundary vegetation*
- Landscape analysis fails to recognise the close views which are available of the site from Station Road and the PROW which runs along the northern site boundary which would be adversely affected.

- *Site visible from Station Road, with views across towards the ridge and Council Hill beyond.* This open view, is important to the local character and setting of Hook Norton, would be lost by the development
- Application has been rejected previously so why are we considering going ahead with this plan
- Development *would over look my property, causing loss of privacy.*
- This is a Greenfield site - It is agricultural land, used for growing crops unlike The Grange & The Sidings which were built on the Brownfield site of the old Railway line and Stanton Engineering
- No improvement in the village infrastructure as a result of any of the developments that have been granted
- Question *what is the capacity of local schools and health care providers to accommodate increases in the local population? Is further growth within Hook Norton sustainable*
- Amenities, infrastructure, roads and road safety are being stretched beyond what is reasonable
- Health services are currently very stretched and it will be difficult to accommodate more patients and still provide a service that could be considered acceptable
- In terms of energy there is no mention of how the premises might be heated, or the provision of solar panels.
- *Extra development in the village would have a detrimental effect on the local wildlife and current habitats, if permission is granted for this development, Swift bricks integrated into the structure of buildings should be made a condition of the development*
- Housing developments tend to have mixed housing with a high proportion of large houses, but village possibly need low cost houses/ rentals and small family homes
- There are a vast number of houses already being developed in Cherwell providing plenty of housing and choice. *They are better served by the position close to Banbury, which has a well-developed infrastructure, transport links and employment opportunities*
- *No consideration of the potential impact of increased air and noise pollution caused by directly by the proposed construction or the heavy plant that will be necessary to travel through the village during the construction of the proposed dwellings*

6.3. **Local MP.** A letter from the local MP Victoria Prentis has been received. The letter outlines that the application follows a previous application which was refused permission as the development would extend beyond the existing built up limits of the village and would be intrusive from a visual perspective to the immediate locality and the currently open countryside. The MP highlights that a number of constituents have expressed a concern to her that the revised plan does not address nor resolve these previous reasons to refuse the application. The development would result in the loss of productive arable land would be visually

intrusive to current residents and the position of the site in general would make such a development would disrupt the local landscape, notably the rising land to the north which includes Council Hill. Hook Norton has seen a number of substantial housing developments in recent years and the MP states that residents feel strongly that the village has already met its requirements to provide housing under the Local Plan. Understand that both the local primary school and nearest secondary school are oversubscribed. The MP requests that the views of the constituents are fully considered when assessing this application.

- 6.4. 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. HOOK NORTON PARISH COUNCIL: **Objection:**

The site is in open countryside and beyond the existing built-up limits to the village, there is a significant change in levels from Station Road to the site, meaning visually intrusive engineering works would be required to access the site, which would be out of keeping with the local character the creation of the access would require a significant loss of established field boundary vegetation with significant harm to biodiversity, character and visual amenity. The rising landform, including Council Hill, to the north of the site, is an important element of the local landscape and setting of Hook Norton. The local landscape character and visual amenity would be harmed by residential development of the site. Public Right of Way 253/21/10 is immediately adjacent to the site and is a very well used route. There are open and close views of the site from this path and development of the site would have a severe and harmful visual impact.

The Hook Norton Neighbourhood Plan (HNNP) requires any development to protect and enhance the local landscape (policy HN-CC1), but this application does not address the fundamental landscape and visual objections to development of the site, such as the relationship with local landscape and Council Hill, the open views from the PROW immediately north of the development and open views from Station Road. The suggested boundary planting will not be of sufficient height or depth. Since the traditional pattern of growth is fundamental to the character of Hook Norton and the application does not accord with that traditional pattern of growth, it is contrary to Policies HN-CC1, HN-CC2, HN-CC3 of HNNP. The HNNP describes Hook Norton in a group of 6 villages required to provide housing of 252 up to the year 2031; all of which have had recent approvals for up to 528 dwellings which exceed this. Further development is unsustainable, particularly when considered cumulatively with the already consented and implemented developments. Local opinion regarding the extent, location and size of future residential development has been very clearly expressed and evidenced during consultations associated with the preparation of a HNNP. The application is contrary to the findings on which the HNNP policies are based.

Under policy HN-H2 of the HNNP, any applications for housing development will be assessed for suitability of location according to a set of criteria. The application fails to meet the following criteria because, the application does not comply with

policies in the plan, as set out in this submission in that it is on a greenfield site and the access to the site will be via a significant slope given the lay of the land.

The Transport Statement submitted with the application includes an independent report which argues that traffic volumes going into the village will be minimal as most facilities are in walking distance. However, the traffic count on which the Statement is based was carried out at the end of July 2020 when the roads were quieter as residents were staying indoors more because of COVID-19 and also during school holidays. As such the results from the survey are not an adequate basis from which to draw conclusions.

Plans in the Transport Statement show that the creation of the visibility splays would significantly impact the existing vegetation. Furthermore, if the visibility splay to the west is to be achieved, it appears to be reliant on works to third party property and trees – for which there appears to be no agreement. No consideration is given to how the proposed access will be created with reference to the differing levels of site and Station Road – no sections are provided and no drawings provided of the engineering work needed to create the access – yet access is not a reserved matter, it is to be determined by this application.

Regarding the “S106 offer” to improve the bus stop, the Parish Council can confirm that this merely demonstrates the lack of consultation with the community – which is not only good practice but also strongly encouraged in planning policy. The Hollybush Road bus stop is being provided with a shelter by the Parish Council, with work currently ongoing. Public transport does not serve the working population well and cycle commuting is impractical. The road into the village is a constant series of blind bends and barely wide enough for two cars to pass. The pavements from the site into the village are very narrow and non-existent in places and you are required to step onto the road to allow on-coming people to pass. The application makes no enhancement to the PROW network as sought in policy HN-COM2 – it only detracts from the existing PROW which is immediately adjacent to the site.

There is no case of need for a new housing development and the application does not evidence any benefits that will be derived, given that:

1. Hook Norton has already had substantial recent housing developments in the village which fulfil and exceed (by over 200%) the need for housing as identified by Cherwell District Council including social housing needs.
2. There are no economic advantages to be derived from this development.
3. The village is now not in a sustainable position to support this as local amenities are fully utilised from the recent three housing developments bringing further 107 homes into the village.
4. The location and size of the site is not in line with the HNNP.
5. It would not help reduce traffic or air traffic pollution and the Transport Statement is based on traffic data which is at best questionable and which underestimates the number of people that will drive to use the facilities in the village.
6. The Hook Norton Low Carbon Society have been considering environmental requirements for the village and are proposing creating a wildlife belt; this development would cut right through this.

CONSULTEES

- 7.3. CDC LANDSCAPE ARCHITECT: **Objection.** The visual receptor will experience a view of the development along sections of the PRow RC 253/21/10 to the northeast, Council Hill, especially so during the winter months when there are no leaves on the intervening trees and hedgerows. Prolonged receptor exposure will occur on a stretch of 277 m (approx.) between viewpoints 9 and 8. The receptor will experience the residential development as a focal point within the landscape. A currently unspoilt landscape with substantial woodland as a strong landscape characteristic. This development will be rather incongruous where the existing urban edge is mainly hidden by trees because there is no similar residential edge character in which to associate with this proposed development. Magnitude of Change of very high (there is a large number of receptors, and the duration of the view is prolonged, uninterrupted and unavoidable), and adverse (proposals result in the total, permanent loss of a highly valued view, and a total and complete change in the composition of the view the introduction features and elements not currently experienced during the transition from VP 9 to VP8), a visual receptor sensitivity of high (observers whose attention or interest will be focussed on the landscape and recognised views in particular).

In reference to The Hook Norton Neighbourhood Plan, section 4.2 Location of development Policy background and reasoning. The presumption of the National Planning Policy Framework is avoidance of new isolated homes in the countryside. This was supported in consultation for the Neighbourhood Plan. Respondents were clearly not in favour of a general expansion of the village beyond existing settlement limits. From the recorded viewpoints and my experience of walking the route it is self-evident that the development will be isolated from this type of development and deemed to be an unwanted 'expansion beyond existing settlement limits'.

Consider the landscape on the northern edge of Hook Norton to be both distinctive and highly valued locally and therefore must be protected from this inappropriate development. Hook Norton Neighbourhood Plan.4.2 Location of development. Policy background and reasoning *the presumption of the National Planning Policy Framework is avoidance of new isolated homes in the countryside. This was supported in consultation for the Neighbourhood Plan. Respondents were clearly not in favour of a general expansion of the village beyond existing settlement limits.*

On the revised details, in order to achieve screening of this development the establishment period for these trees (depending on species selected, maintenance, climate and soil) is approximately 25 years. This will mean the rooflines will still be clearly seen by the visual receptors at viewpoints 8 and 9 with prolong exposure to visual harm on the route between these viewpoints. Furthermore there are factors that will prevent the successful establishment of this 7.5m buffer, such as maintenance, no public access therefore not subject to natural surveillance allowing gardens to encroach, woodland creates shade in adjacent gardens therefore results in complaints.

The amended statement highlights the inter-visibility between the 'old' Church and the proposed 'new' incongruous development and as mentioned above the development could take up to 25 years to effectively screen it and the setting of the Church could effectively be harmed for that period.

When applied to visual receptors, in particular in respect of Council Hill PRoW and a walker's appreciation of a panoramic view that encompasses the Cotswolds AONB, its 'border lands' and the proposed development, will result in the walker/visual receptor experiencing harm from a spoiled panorama, and visual amenity harmed.

In response to this statement note that the application site was referenced in the Neighbourhood Plan as:

'The area between Iron Stone Hollow and the old railway evoked a close split between respondents (my emphasis) who thought it appropriate for housing and those who did not'. The respondents would no doubt expect a comprehensive planning application where the landscape and visual implications are fully explored to enable viable evidence-based decisions to be made. If, indeed, a precedent has been set with other similar developments outside the curtilage of the village, these developments have been rigorously tested through the planning process. Just because 'a precedent' has been set this does not make this development a fait accompli.

This proposed development does not respect or enhance the local landscape character and the development cannot be integrated successfully into the local landscape. I again stress that 'I judge the landscape on the northern edge of Hook Norton to be both distinctive and highly valued locally and therefore must be protected from this inappropriate development'.

The highway access would urbanise the approach from a characterful experience of Station Road with its gradual introduction to the built up village to a very harmful and abrupt urban impact where more of the hedgerow and trees will have to be removed to accommodate bank stabilisation and vision splay, culminating in visual harm not only from the access but the development itself.

- 7.4. BERKSHIRE, BUCKINGHAMSHIRE AND OXFORDSHIRE WILDLIFE TRUST: **Objection.** The application site is located in close proximity, and uphill from the River Swere, which then flows soon after into the Cradle and Grounds Farm Banks LWS. We are concerned about potential indirect impacts on the nature conservation interest of the LWS, and the River Swere, due to possible changes to the hydrology (water quality in particular, and water quantity). The LWS contains Lowland Fen habitat which is sensitive to hydrological changes. Lowland fen is a priority habitat and an irreplaceable habitat. We do not consider that the application has demonstrated that it will not result in any deterioration of the lowland fen habitat in Cradle and Grounds Farm Banks LWS. As such we consider that at present it is contrary to Policy ESD 10 of the Cherwell Local Plan.
- 7.5. CPRE OXFORDSHIRE: **Objection.** Hook Norton has contributed more than its fair share to requirement in the Plan for 750 new homes across all Category A villages with 107 homes at Bourne Lane, The Grange and Scholars Gate. Therefore, this development is not required. development is in a greenfield location outside the village envelope on the eastern edge of the village where the majority of recent house development has already taken place. In no way can it be described as infilling and with 43 homes it well exceeds the Local Plan's criteria of clusters in villages of no more than between 10 and 20 new homes. Therefore, this site does not comply with the policy and will result in further loss of agricultural land. Village is situated in a relatively isolated location not served by any classified roads. The site is not included in the Hook Norton Neighbourhood Plan nor does it comply with the spirit of the plan.

- 7.6. CDC HOUSING STRATEGY: **Comment.** There has been a relatively large amount of housing growth already in the village which has yielded a number of new affordable homes (most recently 20 new dwellings at Bourne Lane) so we would firstly need to determine if there is sufficient need for more affordable homes in the area by way of a Parish Needs Survey. Any new affordable homes that were provided must be appropriate to the findings from this and be in-line with the housing policies outlined in the Hook Norton Neighbourhood Plan 2014 – 2031.

The conclusion at Point 4.1 of the applicant's Planning Statement states that the provision of affordable housing should be given substantial weight, but we could only agree with this if it addressed our – yet to be identified - housing needs. Additionally, point 2.6 in the applicant's Planning Statement references policies HN CC1 – CC5 in the Hook Norton Neighbourhood Plan but does not mention any of the relevant housing policies in the Neighbourhood Plan (HN H1 – H5) and instead refers to general planning considerations. As stated above, our intention is to accommodate the housing policies set out in the Neighbourhood Plan. To ensure the creation of mixed and cohesive communities, affordable housing should be fully integrated with market housing. It should also be visually indistinguishable from the market housing and evenly distributed across the site.

- 7.7. CDC ENVIRONMENTAL HEALTH OFFICER: **No objections** subject to conditions.
- 7.8. ENVIRONMENT AGENCY: No comments to make.
- 7.9. INTERNAL DRAINAGE BOARD: No comments to make.
- 7.10. THAMES WATER: **No objections** subject to conditions.
- 7.11. OCC DRAINAGE (LLFA): **Objection.** Appreciate the information submitted but require more information in order to assess the application in detail. There are discrepancies between the report and the calculations provided and this needs to be clarified. Infiltration trial locations stated in the plan do not correlate with the drainage layout while the trial locations must be where infiltration has been proposed. As there are numerous infiltration locations proposed, several tests are needed in order conclude with a conservative rate. There is no mention soft standing and hard standing areas in the report. A total of 0.062ha is used in the micro drainage calculations, this needs to be clarified. Maintenance plan and exceedance plan are not submitted.
- 7.12. OCC HIGHWAYS: **No objections** subject to conditions and S106 contributions
- 7.13. OCC EDUCATION: **No objections.** Site lies in the designated area of Hook Norton Primary School, which the county council has recently expanded to meet the needs of local housing growth and would have sufficient capacity to meet the needs of the proposed development. For secondary education the site lies within the designated area of Chipping Norton School, which would have sufficient capacity to meet the needs of the proposed scale of development.
- 7.14. OCC ARCHAEOLOGY: **No objections** subject to conditions.
- 7.15. CDC BUILDING CONTROL: **No objections**
- 7.16. CDC RECREATION AND LEISURE: **No objections** subject to S106 contributions.
- 7.17. *Officer comment:- Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local*

finance consideration as far as it is material. Section 70(4) of the 1990 Act (as amended) defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.

- 7.18. *In this particular instance, the above financial payments are not considered to be material to the decision as they would not make the development acceptable in planning terms. It would not be appropriate to make a decision based on the potential for the development to raise money for a local authority and hence the above response from the Council's Finance department is therefore provided on an information basis only.*

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 ('CLP 2015') was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The CLP 2015 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 2015')

- 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 – Brownfield land and Housing Density
- BSC4: Housing Mix
- 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
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems (SuDs)
- 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
- Villages 1: Village Categorisation
- Villages 2: Distribution Growth Across the Rural Areas
- INF1: Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES ('CLP 1996')

- H13: Residential development in category 1 settlements
- H18: New dwellings in the countryside

- C2: Development affecting protected species
- C5: Protection of ecological value and rural character of specified features of value in the district
- C7: Landscape conservation
- C8: Sporadic development in the open countryside
- C13: Areas of High Landscape Value
- C27: Development in villages to respect historic settlement pattern
- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- C33: Protection of important gaps of undeveloped land
- ENV1: Environmental pollution
- ENV12: Potentially contaminated land
- TR1: Transportation funding
- R12: Provision of public open space in association with new residential development

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 Hook Norton Neighbourhood Plan ('HNNP') and the following Policies of the Neighbourhood Plan are considered relevant:

- Policy HN - CC 1: Protection and enhancement of local landscape and character of Hook Norton
- Policy HN - CC 2: Design
- Policy HN - CC 3: Local distinctiveness, variety, and cohesiveness
- Policy HN - CC 4: Resource efficient design
- Policy HN - CC 5: Lighting
- Policy HN - COM 2: Public Rights of Way
- Policy HN - H1: Sustainable housing growth
- Policy HN - H2: Location of housing
- Policy HN - H3: Housing density
- Policy HN - H4: Types of housing
- Policy HN - H5: Provision and retention of affordable housing
- Policy HN - T1: Access and parking
- Policy HN - T2: Non-car transport

8.4. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- 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:

- Principle of development
- Landscape and visual impact
- Highway implications

- Residential amenity
- Affordable Housing and Housing mix
- Site layout and Design principles
- Flooding and drainage
- Ecology impact
- Infrastructure / S106
- Sustainable Construction

Principle of Development

- 9.2. This application seeks outline planning permission for the development of this agricultural field for 43 dwellings, with associated access, drainage and open space. The site lies outside the confines of Hook Norton and comprises an area of open countryside.

Policy Context

National Planning Policy Framework

- 9.3 Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Also, of a material consideration is the guidance provided in the recently revised National Planning Policy Framework (NPPF) which sets out the Governments planning policy for England and how these should be applied.
- 9.4. In determining the acceptability of the principle of new dwellings regard is paid to Government guidance contained within the NPPF. This explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- 9.5 Paragraph 10 states that *so sustainable development is pursued in a positive way, at the heart of the Framework is a **presumption in favour of sustainable development***. Paragraph 11 defines the presumption in favour of sustainable development as *approving development proposals that accord with up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole*.
- 9.6 Paragraph 12 also advises, amongst other things that the *presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making* (my emphasis). *Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. The NPPF also states that a Local Planning Authority may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.*
- 9.7 Paragraph 13 continues by stating that *the application of the presumption has implications for the way communities engage in neighbourhood planning. Neighbourhood plans should support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies*. Furthermore paragraph 14

states that in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:

- a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;
- b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement;
- c) the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 73); and
- d) the local planning authority's housing delivery was at least 45% of that required over the previous three years.

9.8 Section 5 covers the issue of delivering a sufficient supply of homes, and paragraph 59 states that *to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.* Paragraph 63 continues with the advice that *the provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer).* *To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount.*

9.9 Paragraph 69 states that *Neighbourhood planning groups should also consider the opportunities for allocating small and medium-sized sites (of a size consistent with paragraph 68a) suitable for housing in their area.* Paragraph 71 continues by stating that *Local Planning Authorities should support the development of entry-level exception sites, suitable for first time buyers (or those looking to rent their first home), unless the need for such homes is already being met within the authority's area. These sites should be on land which is not already allocated for housing and should:*

- a) *comprise of entry-level homes that offer one or more types of affordable housing as defined in Annex 2 of this Framework; and*
- b) *be adjacent to existing settlements, proportionate in size to them, not compromise the protection given to areas or assets of particular importance in this Framework, and comply with any local design policies and standards.*

9.10 Paragraph 73 highlights the need for *Local Planning Authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period).* Paragraph 74 continues by stating that *a five year supply of deliverable housing sites, with the appropriate buffer, can be demonstrated where it has been established in a recently adopted plan, or in a subsequent annual position statement which:*

- a) *has been produced through engagement with developers and others who have an impact on delivery, and been considered by the Secretary of State; and*

- b) *incorporates the recommendation of the Secretary of State, where the position on specific sites could not be agreed during the engagement process.*

Development Plan

- 9.11 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. The Development Plan for the District comprises the adopted CLP 2015 and the saved policies of the CLP 1996.
- 9.12. Policy PSD1 of the CLP 2015 echoes the NPPF's requirements for 'sustainable development' and that planning applications that accord with the policies in the Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise.
- 9.13. The CLP 2015 seeks to allocate sufficient land to meet District Wide Housing needs. The overall housing strategy is to focus strategic housing growth at the towns of Banbury and Bicester and a small number of strategic sites outside of these towns. With regards to villages, the Local Plan notes that the intention is to protect and enhance the services, facilities, landscapes and natural and historic built environments of the villages and rural areas. It does however advise that there is a need within the rural areas to meet local and Cherwell-wide needs.
- 9.14 Cherwell's position on five year housing land supply is reported in the Council's 2020 Annual Monitoring Report (AMR). The 2020 AMR demonstrates that the District presently has a 4.7 year housing land supply for the period 2021-2026. An additional 509 homes would need to be shown to be deliverable within the five year period to achieve a five year supply as required by the NPPF.
- 9.15. Policy Villages 1 of the CLP 2015 provides a framework for housing growth in the rural areas of the district and groups villages into three separate categories (A, B and C), with Category A villages being considered the most sustainable settlements in the District's rural areas which have physical characteristics and a range of services within them to enable them to accommodate some limited extra housing growth. Deddington is a Category A village.
- 9.16. In order to meet the areas housing needs Policy Villages 2 of the CLP 2015 states that, *a total of 750 homes will be delivered at Category A villages. This will be in addition to the rural allowance for small site 'windfalls' and planning permissions for 10 or more dwellings as at 31 March 2014.* This Policy notes that sites will be identified through the preparation of the Local Plan Part 2, through the preparation of the Neighbourhood Plan where applicable, and through the determination of applications for planning permission.
- 9.17. Policy Villages 2 continues by setting out that when identifying and considering sites, particular regard will be given to the following criteria:
- *Whether the land has been previously developed land or is of less environmental value;*
 - *Whether significant adverse impact on heritage and wildlife assets could be avoided;*
 - *Whether development would contribute in enhancing the built environment;*

- *Whether best and most versatile agricultural land could be avoided;*
- *Whether significant adverse landscape impacts could be avoided;*
- *Whether satisfactory vehicular and pedestrian access/egress could be provided;*
- *Whether the site is well located to services and facilities;*
- *Whether necessary infrastructure could be provided;*
- *Whether land considered for allocation is deliverable now or whether there is a reasonable prospect that it could be developed within the plan period;*
- *Whether land the subject of an application for planning permission could be delivered within the next five years; and*
- *Whether development would have an adverse impact on flood risk.*

Policy BSC1 of the CLP 2015 states that *Cherwell District will deliver a wide choice of high quality homes by providing for 22,840 additional dwellings between 1 April 2011 and 31 March 2031. 1,106 completions were recorded between 2011 and 2014 leaving 21,734 homes to be provided between 2014 and 2031.*

Hook Norton Neighbourhood Plan

- 9.18 The Hook Norton Neighbourhood Plan was made part of the development plan for the area by Cherwell District Council on 19 October 2015. The Neighbourhood Plan and the Policies contained within are therefore a material consideration in the assessment of this application.
- 9.19 Policy CC 1 considers the protection and enhancement of local landscape and character of Hook Norton. The Policy states that *any development must be located and designed so that it is readily visually accommodated into its surroundings and setting and provides a positive contribution to the locally distinctive character and context of Hook Norton.* The Policy continues by stating that *proposals which would introduce development to isolated sites in the open countryside which would adversely affect the tranquillity, unspoilt character and amenity value of the landscape will not be permitted.* Policy CC 3 looks at the local distinctiveness, variety, and cohesiveness of new development. Under this Policy it states that the traditional pattern of growth which characterises Hook Norton is small scale and gradual change and the Policy highlights that *this must be reflected in the extent and amount of any development in Hook Norton.*
- 9.20 As there is an existing public right of way along the northern edge of the site Policy COM 2 highlights that *existing Public Rights of Way in the parish will be protected. Where re-routeing is essential to accommodate sustainable development any loss of amenity value will be minimised.*
- 9.21 In terms of housing policies the Neighbourhood Plan has several relevant policies which are a material consideration in this application. Policy H1 states that *sustainable housing growth for Hook Norton in this Plan period (2014 to 2031) means conversions, infilling, and minor development.* In terms of this application the proposal is clearly for new dwellings to be built on the site and not conversion. In terms of infill development, the Neighbourhood Plan states that this means *the development of a small gap in an otherwise continuous built-up frontage, typically*

but not exclusively suitable for one or two dwellings. The Neighbourhood Plan defines minor development as small scale development proposals, typically but not exclusively for less than 10 dwellings. To maintain a sustainable community, proposals for up to 20 dwellings may be permitted where this does not result in more than 20 dwellings being built in any one location at any time, taking into account any extant permissions. In all cases, housing growth must comply with all relevant policies in this Plan.

- 9.22 Policy H2 highlights the location of housing and states that *any applications for housing development will be assessed for suitability of location using the following criteria. Suitable locations will: (i) Not be in Flood Zone 2 or 3 or within 8 metres of a watercourse (ii) Comply with policies in this Neighbourhood Plan (iii) Take account of existing or potential alternative site uses which shall be identified in consultation with the Parish Council.*
- 9.23 In terms of density for new housing developments Policy H3 states that *for housing development within Hook Norton the maintenance of local character has a higher significance than achieving a minimum housing density figure. The appropriate density for a housing site should in every case within Hook Norton result in a development that is in character with the local surrounding area.* In considering the type of housing to be provided Policy H4 highlights that *a mix of dwelling types and sizes that has regard to the needs of current and future households in Hook Norton will be sought in any development resulting in 3 or more homes. Scheme proposers are required to submit with any planning application a statement setting out how the proposed housing types, sizes and tenures comply with the most up to date Strategic Housing Market Assessment and Local Housing Needs Survey.*
- 9.24 Where affordable housing is required as part of any new development Policy H5 states that *any affordable housing provided as a Rural Exception Site development in Hook Norton will be subject to a legally binding obligation to ensure that initial occupation, and any subsequent lettings or sales, is limited to people meeting Hook Norton Needs or Connections Criteria as set out in Appendix D to the Neighbourhood Plan. This obligation will have permanent effect unless it can be demonstrated that there is no longer any requirement for the affordable housing. Where affordable housing is provided under a Section 106 agreement or similar planning obligation Agreement as a requirement of a housing development under Local Plan policy, the maximum proportion possible of the total units provided under Cherwell District Council's Allocation Scheme shall at every opportunity be allocated to people meeting Hook Norton Needs or Connections Criteria as set out in Appendix D. This obligation will have permanent effect unless it can be demonstrated that there is no longer any requirement for the affordable housing.*

Assessment

- 9.25 The site is not allocated for development in any adopted or emerging policy document forming part of the Development Plan and the site sits outside the built up limits of the village given its physical and visual relationship to the existing built form.
- 9.26. The Council's housing land supply position means that under paragraph 11d of the NPPF the policies in the development plan relating to housing provision are to be considered out of date. This includes Policy Villages 1 of CLP 2015, saved Policy H18 of CLP 1996 and Policies H1 and H2 of the HNNP, and the weight to be afforded these policies is therefore reduced. Where policies are out-of-date, there is a presumption within the NPPF of granting permission for sustainable forms of development unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

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

- 9.27. Hook Norton is recognised as a 'Category A' village and is a large village with a reasonable range of community facilities and services. The village has a relatively regular bus service in the form of the 488 route which provides an hourly service between Banbury and Chipping Norton. Overall, Hook Norton is considered one of the more sustainable Category A villages.
- 9.28. The acceptability of the proposal therefore needs to be tested against Policy Villages 2 of the CLP 2015 (as set out above), as well as other material planning considerations. However, in the first instance it is important to consider the matter of scale and quantity of development, and in particular whether the proposal is in accordance with the overarching housing strategy of the CLP 2015.
- 9.29. The Council's Annual Monitoring Report (AMR) 2020 identifies that in the 12 months to 31 March 2020 there were 144 dwellings completed at Category A villages that contribute to the Policy Villages 2 requirement of 750 dwellings. There are also 193 dwellings under construction from the supply of permitted sites. Between 1 April 2014 and 31 March 2020 there were a total of 415 net housing completions on the above sites. This equates to 55.3% of the total requirement of 750 dwellings. These sites are fully committed to help deliver the Policy Villages 2 requirement.
- 9.30. Once those houses have been completed, on which there were commencements at 31 March 2020, the Council will have delivered 81% of the PV2 target. In addition, development has commenced at sites that would deliver a further 136 dwellings (66 at Launton, 40 at Milcombe, 20 at Weston on the Green, and 10 at the British Waterways site in Kidlington).
- 9.31. The Council is therefore well on the way to delivering the total of 750 dwellings set out at Policy Villages 2. The Inspectors' decisions at Ambrosden which allowed an appeal for up to 84 dwellings and for up to 25 dwellings at Sibford Ferris found that there could be demonstrable harm from exceeding delivery of 750 dwellings at Category A villages within the plan period. However, that figure has not yet been *delivered* and so at this time in terms of delivery this development would appear to be acceptable in policy terms. In addition, the proposals would assist in further meeting overall Policy Villages 2 housing requirements and could also contribute to the provision of affordable housing.
- 9.32. The NPPF places great importance on boosting the supply of homes and that it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay (NPPF, Para 59). And further, that: '*Small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly*' (NPPF, Para 59).
- 9.33. This site was considered in the Housing & Economic Land Availability Assessment (HELAA) final report of 2018 which is a technical study that determines the suitability, availability and achievability of land for development. This report is an important evidence source to inform plan making although it is accepted that the

report does not in itself represent policy, nor does it determine whether a site should be allocated for future development. In considering this site the HELAA highlighted that the site was not considered suitable for the following reasons:

The site is considered to be unsuitable for development as the site has a rural character that relates much more to the countryside to the north and east than to existing development to the west and south, which feel like the edge of the settlement. The site is separated from existing development by a significant hedgerow which adds to the distinction between the site and the existing settlement. Development on the site would have an adverse impact on the character and appearance of the area and the setting of the village.

- 9.34 Notwithstanding the fact that the Council cannot demonstrate a 5 year supply of housing land, the primacy of development plans in the planning system was reaffirmed by a Court of Appeal ruling on two appeals by land promoter Gladman, which emphasised that *where a Council lacks the required five-year housing land supply, this may tilt the balance in favour of proposed residential schemes but it does not render grants of planning permission automatic. It is necessary for the decision maker to assess whether or not the development would lead to harm which would not be outweighed by the benefit of the new housing.* In assessing the development on this site, the impact of the proposal on the rural character of the village is a material consideration before the principle of the development can be considered.

Landscape and Visual Impact

Policy Context

- 9.35. The Government attaches great importance to the design of the built environment within the NPPF. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 9.36. These aims are also echoed within Policy ESD15 of the CLP 2015 which looks to promote and support development of a high standard which contributes positively to an area's character and identity by creating or reinforcing local distinctiveness, stating that, *new development proposals should respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly designed active public frontages.*
- 9.37. Saved Policy C28 of the CLP 1996 states that *control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the context of that development.* Furthermore, saved Policy C30 of CLP 1996 states *control will be exercised to ensure that all new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.*
- 9.38. Policy ESD13 of the CLP 2015 states that *development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not normally be permitted if they would cause undue visual intrusion into the open countryside, cause undue harm to important natural landscape features and topography, be inconsistent with local character, or impact on areas judged to have a high level of tranquillity.*

- 9.39. Policy ESD15 of the CLP 2015 highlights the importance of the character of the built and historic environment. This Policy states, amongst other things, that *successful design is founded upon an understanding and respect for an area's unique built, natural and cultural context. New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design.* The Policy continues by stating that new development proposals should, amongst other things, *contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and respecting local topography and landscape features, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views.* Development should also *respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly defined active public frontages.*
- 9.40 Further as noted above, Policy Villages 2 of CLP 2015 states that in identifying site, particular regard will be given to:
- *Whether land has been previously developed land or is of less environmental value;*
 - *Whether development would contribute in enhancing the built environment*
 - *Whether significant adverse landscape and impacts could be avoided*
- 9.41. As outlined in paragraph 9.21 above the Hook Norton Neighbourhood Plan Policy H1 states that *sustainable housing growth for Hook Norton in this Plan period (2014 to 2031) means conversions, infilling, and minor development.* Policy CC 1 of the Hook Norton Neighbourhood Plan is also relevant in that it states that *any development must be located and designed so that it is readily visually accommodated into its surroundings and setting and provides a positive contribution to the locally distinctive character and context of Hook Norton.*
- 9.42 The Cherwell Residential Guide SPD (2018) builds on the above policies and provides a framework to deliver high quality locally distinctive development.

Assessment

- 9.43 The site is not located within the built-up area of Hook Norton but comprises part of a large agricultural field on the edge of the village. The field is open in nature other than the existing landscape boundary treatment to the south along Station Road and along both the western and northern edge shared with the existing development of Ironstone Hollow and the remainder of the open countryside. However, as the application site forms part of a larger agricultural field the western boundary is not defined. The site is currently used as an agricultural field and although no information is provided to demonstrate the quality of the agricultural land it is noted that there are areas of both grade 2 and 3 quality land in and around the area of Hook Norton. Notwithstanding this point it is considered that the area of the site is of high landscape value providing an attractive rural setting for the approach to Hook Norton from the east with a very rural and tranquil character. It is also considered that due to the strong existing natural boundary to the west, south and north the site appears on the edge of the built area of the village and with the site being part of a larger field with no clear boundary to the site along the eastern edge the site is not viewed as a built form of the village.
- 9.44 The development of this site with 43 dwellings would clearly change this approach and view of the village into a more urban approach. The applicant clearly

acknowledges this point by stating that the eastern edge will be the subject of an extensive landscape buffer suggesting that the harm of the development on the area is high. The applicant also states that *“seeing elements of new built form is not necessarily unacceptably harmful particularly where the well treed character of the village is replicated to ensure that the development assimilates into its settlement edge location”*..

- 9.45 Policy CC 1 of the Neighbourhood Plan states that *any development must be located and designed so that it is readily visually accommodated into its surroundings and setting and provides a positive contribution to the locally distinctive character and context of Hook Norton*. Given the changes in levels, the existing character of the site and the lack of natural boundary to the site's eastern edge, and the presence of footpaths adjacent to the site, the proposal would have a significant local visual impact.
- 9.46 As highlighted above the Council's Landscape Architect considers that the development would have an adverse impact on the landscape setting of the village. In considering this impact the concern is that those using the public right of way would experience a view of the development along sections of the PRoW RC 253/21/10 to the northeast, Council Hill, and especially so during the winter months when there are no leaves on the intervening trees and hedgerows. This prolonged receptor exposure would occur on a stretch of 277 m (approx.) between viewpoints 9 and 8. The receptor would experience the residential development as a focal point within the landscape which at the moment is an unspoilt landscape with substantial woodland as a strong landscape characteristic. This means a Magnitude of Change of very high (there is a large number of receptors, and the duration of the view is prolonged, uninterrupted and unavoidable), and adverse (proposals result in the total, permanent loss of a highly valued view, and a total and complete change in the composition of the view the introduction features and elements not currently experienced during the transition from VP 9 to VP8), a visual receptor sensitivity of high (observers whose attention or interest will be focussed on the landscape and recognised views in particular. The development would cause major alteration to the landscape by including elements totally uncharacteristic of the current visual experience.
- 9.47 It is accepted that the proposed development would appear as an urban form on the edge of the village in an area currently of open countryside / agricultural field. The impact of the development could be viewed as an incongruous feature whereas the existing urban edge of Ironstone Hollow is mainly hidden by trees because there is no similar residential edge character in which to associate with this proposed development. However, the Ironstone Hollow development was visually stark when first built and formed the new urban edge to the village but due to the existing landscape boundary the impact of this existing residential estate is screened and softened to a point that the development is part of the character of the approach to Hook Norton. The development of this site with a strong landscape buffer will, over time, replicate this existing landscape boundary along the edge of Ironstone Hollow and therefore replicate the rural edge of the village.
- 9.48 The impact of the development at a closer point of view along the public right of way along the northern section of the site is considered by the Council's Landscape officer as very harmful. From this point of view the site gradually becomes open to view to almost its full extent. As such the magnitude of change is considered to be very high with a high receptor sensitivity resulting in a significance of effect of high adverse. The northern section of the site is marked by a public right of way and this right of way continues along the western edge of the site between the site and the residential area of Ironstone Hollow. The proposed development would have a significant impact on views from this right of

way. However, this impact would be reduced with the provision of the landscape along the north and western boundary of the site. Furthermore, the indicative layout plan submitted with the application shows the development would allow for an area of open space on the western side of the development which would ensure that the impact of the development on the footpath along the shared boundary with Ironstone Hollow is reduced to a minimum.

- 9.49 Notwithstanding the above, by virtue of its nature, being the development of a green field site beyond the existing built up limits of the village into the open countryside, the development would also result in localised harm within the immediate vicinity of the site. This includes at the point of access into the site off Station Road, which is situated at approximately 2m above the level of the site. In order to provide the access road, the development would require one of two things - the first would be for the need for considerable excavation of the verge to enable an access to be achieved, with significant existing tree and hedge removal as a result. The alternative would be for the import of further materials onto the site to provide a ramp access point to allow the access road to drop into the site at a gradual gradient for vehicle and pedestrian safety. This approach would also impact on the trees and hedgerow along Station Road as well as elevate highway features such as street lighting in the site further urbanising the site and the locality.
- 9.50 Seeking to address this issue the applicant has provide details on the indicative plan of a landscape buffer to form the eastern edge of the development site. This buffer would be to a depth of 7.5m and would provide a significant green edge to the development. As highlighted by the Council's landscape officer, this buffer would take time to establish and to mitigate the visual impact of the development. It is an established planning principle that landscaping cannot make an otherwise unacceptable development acceptable, but it is the case that over time the landscape buffer would become established and when mature would provide a new green edge to the village.
- 9.51 As such, while the proposal would result in built development on a green field site and would urbanise the countryside and would thus conflict with Policy ESD 15 where new development is expected to *contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and respecting local topography and landscape features*, the impact would be localised and would reduce over time.
- 9.52 The applicant has confirmed that the proposal is for the creation of a ramped access into the site which would allow for the access road to gradually drop into the site. The creation of the new access point would result in the loss of parts of the existing landscape boundary along Station Road, which would have the impact of creating a view into the site from Station Road and a significant change in character from agricultural land to a new housing estate. In this instance the existing landscape boundary is a traditional field boundary with a mix of trees and hedgerow. None of the landscaping is of a high quality other than it creates a soft edge along Station Road. The proposals include enhancement of the landscaping along Station Road, which would mitigate the impact of the loss of the landscaping in order to create the access point.
- 9.53 That said, the proposed access road would have a significant impact on the street scene and on the rural setting to this part of the village. The development would therefore be contrary to Policy Village 2 as well as Policies C28 and C30 of the CLP 1996 and Policy ESD13 of the CLP 2015.

9.54 As outlined in Policy Villages 2 there is a requirement that a number of key criteria be taken into account in considering the development of housing in the village. Of these criteria the following are relevant to this application:

- *Whether the land has been previously developed land or is of less environmental value;*
- *Whether development would contribute in enhancing the built environment;*
- *Whether significant adverse landscape impacts could be avoided*

9.55 In considering these points the development of this open countryside site would not be on previously developed land but on land that has a high environmental value for its contribution to the setting of Hook Norton. The development of the site on its own would not enhance the built environment as the site is open countryside but with the provision of the significant landscape buffer the development as a whole would ensure that the edge of the village would be enhanced. This approach was also adopted in the appeal decisions at Ambrosden for 84 dwellings and Sibford Ferris for 25 dwellings where both appeals were allowed for development located in areas of the same character to the current application at Hook Norton.

Conclusion

9.56 For these reasons it is considered that the development of the site would comply with the criteria under Village 2 Policy and the harm of the development would be outweighed by the benefits of the residential development. The development would also comply with saved Policies C28 and C30 of the CLP 1996, Policies ESD13 and ESD15 of the CLP 2015 as well as Policies CC1 and H1 of the Hook Norton Neighbourhood Plan.

Highway Implications

Policy context

9.57 Paragraph 108 of the NPPF states that in assessing specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
- b) safe and suitable access to the site can be achieved for all users; and*
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

In addition to this paragraph 109 highlights that *development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*

Assessment

9.58 This application seeks outline permission for the development of the site with all matters other than access to be reserved for a later date. As such the application is supported by details of the access into the site which would be via a new single access road off Station Road.

- 9.59 The transport statement submitted in support of the application outlines that the traffic generated by the proposed development is not considered to have a severe impact on the existing highway network given the scale of the development and the nature of the roads.
- 9.60 Notwithstanding the issues of the construction of the access the Local Highway Authority (LHA) has raised no objections to the principle of the access arrangement to serve the development subject to conditions and contributions to be secured through S106 Agreement. The LHA does, however, raise a question over the indicative layout and position of the access road to trees on the site although the LHA notes that full details of the site layout, access and parking arrangements would be considered under future reserved matters applications.
- 9.61 The LHA has requested a contribution of £52,550 for enhancement to the Public Transport Services serving Hook Norton, which would help in the village being more accessible by a sustainable mode of transport as encouraged by the NPPF and this would be secured through a Section 106.

Conclusion

- 9.62 The LHA advises that the proposals are acceptable in terms of highways safety and potential impacts on the local road network and officers see no reason to disagree with the LHA's assessment.

Residential Amenity

- 9.63 Saved Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. These provisions are echoed in Policy ESD15 of the CLP 2015 which states that: 'new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space'.
- 9.64 The application is in outline only and therefore all detailed proposals in the reserved matters applications would need to have due regard to requirements of Section 6 of the Residential Design Guide SPD with regard to appropriate standards of amenity for both existing and future residents. Appropriate positioning and scale of dwellings, boundary treatments and the nature of such treatments could be given due consideration at reserved matters stage.
- 9.65 The proposed development would be located away from surrounding residential properties. The existing properties which would be most impacted upon by the proposed development would be the properties to the west of the site in Ironstone Hollow. These properties are separated by the application site by landscaping belt, and as shown on the indicative plan a significant distance from the proposed development.
- 9.66 Given the above, it is considered that the development could be made acceptable in residential amenity terms, both for existing residents neighbouring the site and future occupiers, with acceptable details to be secured at reserved matters stage.

Affordable Housing and Housing Mix

- 9.67 Policy BSC3 of the CLP 2015 states that development on the site should make provision for 35% affordable housing with 70% of the affordable housing to be affordable rent and 30% as intermediate homes such as shared ownership. Policy BSC4 states that new development will be expected to provide a mix of home to

meet current and expected future demand creating socially mixed and inclusive communities.

- 9.68 The applicant has committed to entering into a planning obligation that may be lawfully demanded pursuant to Regulation 122 of the CIL Regulations 2010 which will include a policy compliant provision for affordable housing providing 35% affordable housing on the site in line with Policy BSC3. The detailed housing mix would be determined at reserved matters stage and at the current time the plans are only indicative.
- 9.69 In considering the details of the application the advice from the Strategic Housing Officer is that there has been a relatively large amount of housing growth already in the village which has yielded several new affordable homes (most recently 20 new dwellings at Bourne Lane). As such before a final figure of affordable housing can be agreed it would first be necessary to determine if there is sufficient need for more affordable homes in the area by way of a Parish Needs Survey.
- 9.70 Any new affordable homes provided must be appropriate to the findings from this and be in-line with the housing policies outlined in the Hook Norton Neighbourhood Plan 2014 – 2031. Notwithstanding this point it is accepted that there is a District-wide need for more affordable housing, but that new affordable housing provided in the village should primarily meet a local need. In terms of this application it is also noted that the house types proposed are 2, 3 and 4-bedroom homes but as these house types have already been provided on recent new sites in the village it may be that other house types of housing would be required such as 1-bedroom houses or bungalows in addition to these. In terms of tenure it is suggested by the Strategic Housing Officer that the proportions should be split 70/30 between Rented units/Shared Ownership units and that social rent would be required.
- 9.71 It is acknowledged that the applicant has confirmed that the proposal would provide the Policy compliant provision of 35% affordable housing on the site. Notwithstanding the comments of the Strategic Housing Officer stating that the level of affordable housing needs to be the subject of a Parish needs survey, it is clear that outlined in Policy BSC3 there is a high level of need for affordable housing in the District. As such there is no objections raised to the development from an affordable housing point of view subject to the necessary number, type, tenure and secured by a legal agreement to ensure compliance with Policy BSC3 of the CLP 2015.
- 9.72. It is also noted that the Strategic Housing officer has requested that at least 50% of the rented dwellings to meet Approved Document Part M4(2) Category 2. The applicant cannot be formally required to comply with this requirement as there is no adopted policy in place. However, they will be requested to include comply with this requirement through the final built form on the site.

Site Layout and Design Principles

Policy Context

- 9.73. Policy ESD15 of the CLP 2015 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. Section 12 of the National Planning Policy Framework is clear that good design is a fundamental to what the planning and development process should achieve.

- 9.74. BSC2 of the CLP 2015 states that new housing should be provided on net development areas at a density of at least 30 dwellings per hectare unless there are justifiable reasons to lower the density.
- 9.75. The Council's Design Guide 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 the use of traditional building materials and detailing and form that respond to the local vernacular.

Assessment

- 9.76. Although this application is in outline form and therefore only seeks approval of the principle of a residential development on the site an indicative layout has been provided in support of the application. This layout shows an estate of 43 dwellings with a single access point off Station Road. Presumably due to the levels difference this access road has a long lead into the site and forms a single spine road through the development with dwellings fronting onto this spine road as well as a series of small private driveways / cul-de-sacs serving other dwellings.
- 9.77. In the suggested layout a significant number of dwellings are positioned close to the eastern boundary of the site, all of which would back onto the suggested landscape boundary. The end result would be that the eastern edge of the development would form a relatively hard edge and would be a significant change to the approach of Hook Norton to the detriment of the rural character of this part of the village. However, as outlined above the indicative plan shows a significant landscape buffer to be provided along the eastern edge of the development site which would help reduce the impact of the development. This landscape buffer would repeat the traditional landscape lead edge of the village as currently seen along the edge of the Ironstone Hollow development. Furthermore, it is also the case that the landscape buffer is significantly wider than the landscape buffer shown in the previous application refused outline permission in 2014 and is a material change and improvement upon this earlier application.
- 9.78. Overall, although it is considered that the current layout presented would result in an unacceptable form of development, but it has to be recognised that the application is made in outline with all matters reserved. Therefore, the layout, scale and appearance of the development would be considered at a later stage. Given the relatively low density of the scheme and the not irregular shape of the site it is considered that a revised layout could be negotiated at reserved matters stage to ensure that the proposed development achieved a high quality and locally distinctive scheme.
- 9.79. The density of the scheme is stated by the applicant in their Design & Access Statement as 20 dwellings per hectare which is lower than the 30 dwellings per hectare sought under Policy BSC3 of the CLP 2015. However, in this case, given the edge of settlement location of the development and the need for a robust landscape strategy to the boundaries of the site, it is considered that the lower density is, on balance, justifiable in this instance.

Conclusion

- 9.80. Although the details of the layout and dwelling designs would be the subject of further reserved matters application there is concern over the proposed layout and design principles for the development as indicated within the current submission. However, given the context and arrangement of the site it is considered that in granting outline permission an acceptable layout would be negotiated, and that

such matters would be fully considered as part of any such reserved matters application.

Flooding Risk and Drainage

Policy context

9.81. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 163 of which states that *when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
- b) the development is appropriately flood resistant and resilient;*
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
- d) any residual risk can be safely managed; and e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.*

9.82 Paragraph 165 of the NPPF continues by stating that *major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:*

- a) take account of advice from the lead local flood authority;*
- b) have appropriate proposed minimum operational standards;*
- c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and*
- d) where possible, provide multifunctional benefits.*

9.83 Policy ESD6 of the CLP 2015 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding.

9.84. Policy ESD7 of the CLP 2015 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District.

Assessment

9.85 The current is situated wholly within Flood Zone 1 which is land which has a less than 1 in 1,000 annual probability of river flooding.

9.86 The applicant has submitted a Flood Risk Assessment (FRA) which has been amended with further information during the course of the application process. The FRA outlines a potential drainage strategy for the site including an infiltration basin

feature in the western area of the site which also doubles up as part of the area of open space serving the development.

- 9.87 In considering the details of the initial FRA the Local Lead Flood Authority Officer (LLFA) has questioned some of the advice provided in the applicants FRA and in doing so has requested further information to be submitted. The applicant has provided additional information and at the time of drafting this report the further comments from the LLFA was awaited. However, until this advice is received there is an outstanding objection on the details submitted with the application and as such the application has failed to address the need to ensure that adequate drainage is provided on the site to ensure that the development does not lead to problems of surface water flooding both on the site and to adjoining sites. The development therefore fails to comply with policies ESD6 and ESD7 of the CLP 2015 as well as advice contained within section 14 of the NPPF.

Conclusion

- 9.88 This application seeks to develop a green field site for 43 dwellings and associated access. At the time of drafting this report there were still outstanding questions regarding the details of the FRA submitted with the application. Additional information had been provided by the applicant to address the concerns raised by the LLFA and a response to this additional information is awaited. Providing that the LLFA confirms that the information submitted demonstrate that the development would provide adequate drainage upon the site to ensure that the development does not lead to problems of surface water flooding both on the site and to adjoining sites there is no objections to the scheme on the issue of drainage.

Ecology

Legislative context

- 9.89. 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.
- 9.90. 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.
- 9.91 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.

- 9.92. 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.
- 9.93. 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

- 9.94. 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.
- 9.95. Paragraph 175 states, amongst other things, 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.*
- 9.96. Policy ESD10 of the CLP 2015 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.
- 9.97. 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.

- 9.98. 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 (LPAs) 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

- 9.99 This application is supported by a Preliminary Ecological Appraisal (PEA) of the site with an Extended Phase 1 Habitat Survey of the site in April 2020 undertaken by a suitably experienced ecologist. The results of this PEA underline that the majority of the site is comprised of arable land and has low ecological value. Hedgerows, which are anticipated to be retained, form the northern, western and southern site boundaries and are of site level value to nature conservation.
- 9.100 Members will see that the Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust (BBOWT) raises an objection to the application. In their view the application site is located in close proximity, and uphill from the River Swere, which then flows soon after into the Cradle and Grounds Farm Banks Local Wildlife Site (LWS). BBOWT is concerned about potential indirect impacts on the nature conservation interest of the LWS, and the River Swere, due to possible changes to the hydrology (water quality in particular, and water quantity). They advise that the application has failed to demonstrate that it would not result in any deterioration of the lowland fen habitat in Cradle and Grounds Farm Banks LWS. As such the BBOWT considers that at present the application is contrary to Policy ESD 10 of the CLP 2015. In addition BBOWT also considers that the application does not provide evidence of a net gain in biodiversity. As such the application is contrary to Policy ESD10.
- 9.101 With regards to the issue over the impact on the LWS the applicant has responded by stating that the Flood Risk Assessment supporting the current application identifies that a SuDS arrangement utilising infiltration (soakaways and permeable paving) provides a suitable means of disposing of all surface water from the site. The applicant continues by stating that the introduction of this SUDs system within the site will intercept overland exceedance flows. Accordingly, as at present, there will be no direct surface hydrological pathway between the site and these tributaries of the River Swere. It is also considered by the applicant that the quantity of rainwater which presently falls on the site would not change as a result of this development and that the use of filtration features ensures that there would be no change in water quality leaving the site. In terms of water quality, the applicant is of the view that as the current use of the site is for agriculture which would have been subject to regular use of fertilizers and pesticides. The development of the site for residential use would result in a significant reduction in the use of pesticides and agricultural fertilizers. Rainwater falling on roofs would flow directly to soakaways and would therefore be “clean” water.
- 9.102 In response to this objection the applicant has stated that, as the proposal is in outline form, with all matters reserved except access, landscape planting details are not available to use in a Biodiversity Impact Calculator to determine a net gain in biodiversity. In addition the applicant also points out that when they ran the development proposal through the DEFRA v2 Biodiversity Impact Calculator selecting baseline as arable and generic ‘Urban - Suburban/ mosaic of developed/natural surface’ for post-development, due to the lack of landscape planting details at this stage showed there would be a 40% increase in Biodiversity Net Gain. Furthermore, as the proposed development can clearly deliver

Biodiversity Net Gain in principle, given that the site is under arable production and the proposed development as shown on the submitted illustrative layout includes large areas Green Infrastructure which could be planted with native species mixes. It is suggested that a planning condition is imposed which requires the detailed landscaping proposals to be submitted at the reserved matter stage and demonstrate how Biodiversity Net Gain will be delivered through selection of appropriate species mixes.

- 9.103 BBOWT has been re-consulted on the revised / further information submitted by the applicant and at the time of drafting this report no further comments had been received. Any comments received prior to the planning committee meeting will form part of a verbal update on this item. Notwithstanding this point, unless the BBOWT responds with further objections or maintains its initial objection, it is considered that the applicant has provided evidence to demonstrate that the development would not result in any adverse impact on the ecology on / near the site and that the development through conditions would allow for a net biodiversity gain.

Infrastructure / S106

- 9.104 Due to the level of development on the site the issue of S106 contributions along with an element of affordable housing should be taken into account. A number of contributions are sought by Cherwell District Council, via the adopted Developers Contributions Supplementary Planning Document February 2018, which follows the tests of the National Planning Policy Framework and is therefore relevant to this planning application.

Policy Context

- 9.105 Paragraph 54 of the NPPF states that *local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.* Paragraph 56 continues by stating that *planning obligations must only be sought where they meet all of the following tests:*

- a) necessary to make the development acceptable in planning terms;*
- b) directly related to the development; and*
- c) fairly and reasonably related in scale and kind to the development.*

Development Plan

- 9.106 Policy INF 1 of the CLP 2015 covers the issue of Infrastructure. This Policy states, amongst other things, that the *Council's approach to infrastructure planning in the District will identify the infrastructure required to meet the District's growth, to support the strategic site allocations and to ensure delivery by:*

- Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.*

- 9.107 Policy BSC 3 of the CLP 2015 states, amongst other things that *at Kidlington and elsewhere, all proposed developments that include 11 or more dwellings (gross), or which would be provided on sites suitable for 11 or more dwellings (gross), will be expected to provide at least 35% of new housing as affordable homes on site.*

The Policy continues by stating that, *all qualifying developments will be expected to provide 70% of the affordable housing as affordable/social rented dwellings and 30% as other forms of intermediate affordable homes. Social rented housing will be particularly supported in the form of extra care or other supported housing. It is expected that these requirements will be met without the use of social housing grant or other grant.*

9.108 The Council also has an adopted Developer Contributions SPD in place which was adopted in February 2018. Under the SPD it is outlined that Although the scope for securing S106 planning obligations has been reduced since April 2015 due to the pooling restrictions, it is expected that planning obligations will still be sought for:

- Affordable housing; and
- Infrastructure which is required to mitigate the direct impact of a development.

It should, however, be noted that this is a general guide and development proposals will continue to be assessed on a case by case basis with the individual circumstances of each site being taken into consideration when identifying infrastructure requirements.

Assessment

9.109 Due to the level of development on the site the issue of affordable housing should be taken into account. Paragraph 64 of the NPPF states that *where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups.* This application is for 43 dwellings on the site which would represent a major application in terms of definition. As such the application should provide an element of affordable housing as part of the proposal. In addition, this it is also considered that the development should contribute towards community hall facilities, Indoor and outdoor sports provision, towards Public Art and highway infrastructure improvements necessary for the development.

9.110 In considering the issue of affordable housing the advice from the Strategic Housing Officer is that the total number of affordable dwellings shall be at least 35%, as outlined in Policy BSC3. Furthermore, it is outlined that the tenure proportions would be split 70/30 between Rented units/Shared Ownership units and we would seek social rent. Notwithstanding this point however, it is also highlighted that there has been a relatively large amount of housing growth already in the village which has yielded a number of new affordable homes (most recently 20 new dwellings at Bourne Lane) so we would firstly need to determine if there is sufficient need for more affordable homes in the area by way of a Parish Needs Survey. Any new affordable homes that were provided must be appropriate to the findings from this and be in-line with the housing policies outlined in the Hook Norton Neighbourhood Plan 2014 – 2031. Although it is noted in the applicant's Planning Statement that the provision of affordable housing should be given substantial weight, the view of the Strategic Housing Officer is that this could only be agreed if it addressed our – yet to be identified - housing needs. It is accepted that there is a need across the District for more affordable housing, but it has to also be accepted that new affordable housing provided in the village should primarily meet a local need. It is also the case that this approach also has to be taken into account in the consideration of the development of this site in the open countryside.

- 9.111 As also outlined in the response from the Council's Recreation and Leisure Officer there is a need for contributions towards community facilities to be included as part of any S106 agreement. Finally, there is a need for contributions towards highway infrastructure requires to be covered by a S106 agreement.
- 9.110 The application is not supported by any draft heads of terms although it is accepted that the applicant has confirmed that they are prepared to enter a planning obligation that may be lawfully demanded pursuant to Regulation 122 of the CIL Regulations 2010. The obligation will include a policy compliant provision for affordable housing; education facilities; health facilities and other facilities considered lawful. As part of the process of the application the applicant has confirmed that on granting outline planning permission work on the S106 will progress to an agreement which is policy compliant. As such it is considered that the development will comply with Policies BSC3 and INF1 of the CLP 2015 as well as guidance outlined in paragraph 54 of the NPPF.

Conclusion

- 9.111 The application is not supported by any draft heads of terms for a S106. But as noted above of the applicant is in agreement to comply with a S106 requirement in association with the development. Therefore, this application will comply with Policy INF1 of the CLP 2015 as well as guidance outlined in paragraph 54 of the NPPF.

Sustainable Construction

Policy Context

- 9.112. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 150 states that new development should be planned for in ways that: a) *avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure; and b) can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards.* Paragraph 151 continues by stating, amongst other things, that *in order to help increase the use and supply of renewable and low carbon energy and heat, plans should: c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.*

Development Plan

- 9.113. Policy ESD1 in the adopted Cherwell Local Plan covers the issue of Mitigating and Adapting to Climate Change and includes a criteria under which application for new development will be considered. Included in the criteria is the requirement that development will incorporate suitable adaptation measures to ensure that development is more resilient to climate change impacts. These requirements will include the consideration of, *taking into account the known physical and environmental constraints when identifying locations for development. Demonstration of design approaches that are resilient to climate change impacts including the use of passive solar design for heating and cooling. Minimising the risk of flooding and making use of sustainable drainage methods and reducing the effects of development on the microclimate (through the provision of green infrastructure including open space and water, planting, and green roofs).*

9.114. With regards to Policy ESD 2, this covers the area of Energy Hierarchy and Allowable Solutions. This policy seeks to achieve carbon emissions reductions, where the Council will promote an 'energy hierarchy' as follows: *Reducing energy use, in particular by the use of sustainable design and construction measures. Supplying energy efficiently and giving priority to decentralised energy supply. Making use of renewable energy Making use of allowable solutions.* Any new development will be expected to take these points into account and address the energy needs of the development.

9.115. Policy ESD 3 covers the issue of Sustainable Construction and states amongst other things that *all new residential development will be expected to incorporate sustainable design and construction technology to achieve zero carbon development through a combination of fabric energy efficiency, carbon compliance and allowable solutions in line with Government policy.* The Policy continues by stating that *Cherwell District is in an area of water stress and as such the Council will seek a higher level of water efficiency than required in the Building Regulations, with developments achieving a limit of 110 litres/person/day.* The Policy continues by stating that *all development proposals will be encouraged to reflect high quality design and high environmental standards, demonstrating sustainable construction methods including but not limited to: Minimising both energy demands and energy loss. Maximising passive solar lighting and natural ventilation. Maximising resource efficiency Incorporating the use of recycled and energy efficient materials. Incorporating the use of locally sourced building materials. Reducing waste and pollution and making adequate provision for the recycling of waste. Making use of sustainable drainage methods. Reducing the impact on the external environment and maximising opportunities for cooling and shading (by the provision of open space and water, planting, and green roofs, for example); and making use of the embodied energy within buildings wherever possible and re-using materials where proposals involve demolition or redevelopment.*

Assessment

9.116. This application seeks outline planning permission for a new development of 43 dwellings on the site. As such the final design of the building is not provided as this will be the subject of a reserved matters application. At that stage it is considered that the full details of the sustainability measure to be incorporated into the design will be provided and agreed. A condition is attached to this outline permission which highlights the need to ensure that the final design of the building complies with Policy ESD3 as well as the requirements of Section 14 of the NPPF.

Conclusion

9.117. Although it is accepted that at this stage no information is provided with regards to the final design and hence sustainability measures to be used on this site. However, it is considered that the imposition of a condition to secure the sustainability credentials of the development would comply with the aspirations of these policies.

10. PLANNING BALANCE AND CONCLUSION

10.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise. The NPPF supports this position and adds that proposals that accord with an up-to-date development plan should be approved and those which do not should normally be refused unless outweighed by other material considerations.

- 10.2. In reaching an informed decision on planning applications there is a need for the Local Planning Authority to undertake a balancing exercise to examine whether the adverse impacts of a development would be outweighed by the benefits such that, notwithstanding the harm, it could be considered sustainable development within the meaning given in the NPPF. In carrying out the balancing exercise it is, therefore, necessary to take into account policies in the development plan as well as those in the NPPF. It is also necessary to recognise that Section 38 of the 1990 Act continues to require decisions to be made in accordance with the development plan and the NPPF highlights the importance of the plan led system as a whole.
- 10.3. Having regard to the Council's current housing land supply position, i.e. less than a 5-year housing land supply, Paragraph 11d of the NPPF is engaged; with a presumption of granting planning permission unless such would cause conflict with other policies and would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 10.4. The site is an open agricultural field unallocated in the adopted CLP 2015 and in the Neighbourhood Plan. Hook Norton is designated as a Category A Village under Policy Villages 1 of the CLP 2015. Policy Villages 2 supports development of sites for more than 10 homes at Category A villages in certain circumstances, this development would be for 43 dwellings and therefore fall within this category. 750 homes are to be delivered across these villages. The Council has yet to deliver 750 homes under PV2. When considering sites under this policy several criteria apply relating to the site's environmental value and impact and deliverability.
- 10.5. It is considered that the site being an area of open countryside on the approach to Hook Norton has a tranquil and rural character which would be lost as result of this development. The field boundaries to the west, north and south are strong reference points outlining the area of the agricultural field as different to the built form of development of the village. The site is clearly outside the built form of the village and the proposal would urbanise the countryside. However, a significant landscape buffer is proposed along the eastern boundary which over time would help to screen the development and would mitigate the visual impact of the development.
- 10.6. The proposals are considered acceptable in terms of transport, and neighbour amenity. It is further considered that a net gain in biodiversity across the site can be achieved and that subject to confirmation from the Local Lead Flood Authority that an acceptable drainage solution is achievable at the site that would ensure that flood-risk is not exacerbated. The application due to its size and nature requires the submission and agreement of a S106.
- 10.7. It is accepted that the development would make a valuable contribution to housing delivery and that significant weight should be attached to this benefit. Significant weight would be given to the provision of affordable housing as part of this but in this instance there is a question over the need for and quantum of affordable housing required due to the level of existing and recent new development in the village. There would also be some economic benefit in the support of construction jobs and spending in the area those future residents would bring about although this is only afforded minor to moderate weight.
- 10.8. It is recognised that in recent appeal decisions in similar scenarios, albeit where the Council could demonstrate the required housing supply (3 years at that time), e.g. at Ambrosden and Sibford Ferris, the principle impact was on the character and appearance of the countryside and the local landscape and yet that impact was considered not to outweigh the benefits of additional housing. Officers consider the same applies here.

- 10.9. Overall, it is considered that the harm in the form of the views into the site and the loss of landscaping as identified in this report would not outweigh the benefits of the additional housing in the District. Given the above assessment and in light of current guiding national and local policy set out in the report, it is considered that the proposal would amount to sustainable development and therefore the recommendation is that outline planning permission be refused in this instance.

11. RECOMMENDATION

RECOMMENDATION – SUBJECT TO NO OBJECTIONS BEING RAISED BY THE LOCAL LEAD FLOOD AUTHORITY OFFICER AND THE BERKSHIRE, BUCKINGHAMSHIRE AND OXFORDSHIRE WILDLIFE TRUST AMENDED INFORMATION, TO DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):

S106 Obligations

- a) Provision of 35% affordable housing on site
- b) Payment of a financial contribution towards Community Hall Facilities in the locality of £55,075.58
- c) Payment of a financial contribution towards Outdoor Sport Provision in the locality of £97,182.15
- d) Payment of a financial contribution towards Indoor Sport Provision in the locality of £40,228.34
- e) Payment of a financial contribution towards the provision of refuse/recycling bins for the development of £106 per dwelling (index linked)
- f) Payment of a financial contribution towards the improvements of 488 bus service in the village of £52,550
- g) Payment of the Council's monitoring costs of £1500].

Conditions

1. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

Reason : To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (Development Management Procedure (England)) Order 2015 (as amended).

2. Details of the layout, scale, appearance, and landscaping (hereafter referred to as 'the reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.

Reason : To comply with the provisions of Section 92 of the Town and Country

Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 6 of the Town and Country Planning (Development Management Procedure (England)) Order 2015 (as amended).

3. Prior to the commencement of the development hereby approved, details of the means of access between the land and the highway on Station Road, including position, layout and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the occupation of any of the dwellings, the means of access shall be constructed and retained in accordance with the approved details.

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

4. Before the development permitted is commenced a swept path analysis shall be submitted to, and approved in writing by, the Local Planning Authority to demonstrate that for a modern family vehicle and refuse vehicle can safely and easily pass one another throughout the development site.

Reason: In the interest of highway safety

5. No development shall take place [on any phase], including any works of demolition until a Construction Method Statement [for that phase] has been submitted to, and approved in writing by the Local Planning Authority. The statement shall provide for at a minimum:
 - a) The parking of vehicles of site operatives and visitors;
 - b) The routing of HGVs to and from the site;
 - c) Loading and unloading of plant and materials;
 - d) Storage of plant and materials used in constructing the development;
 - e) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - f) Wheel washing facilities including type of operation (automated, water recycling etc) and road sweeping;
 - g) Measures to control the emission of dust and dirt during construction;
 - h) A scheme for recycling/ disposing of waste resulting from demolition and construction works;
 - i) Delivery, demolition and construction working hours;
 - j) The mitigation measures recommended at (ADD REFERENCES) of the submitted Environmental Statement (DATE)

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason : To ensure the environment is protected during construction in accordance with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

6. No dwelling of the development hereby permitted shall be occupied until cycle parking has been provided according to a plan showing the number, location and design of cycle parking for the dwellings that has previously been submitted to and approved in writing by the Local Planning Authority. The cycle parking will be permanently retained and maintained for the parking of cycles in connection with the development.

Reason - To ensure appropriate levels of cycle parking are available at all times to

serve the development, and to comply with Government guidance contained within the National Planning Policy Framework.

7. A Residential Travel Information Pack is required prior to first occupation and then distributed to all residents at the point of occupation.

Reason – to ensure all residents are aware of the travel choices available to them from the outset.

8. The development shall not be occupied until confirmation has been provided that either:-

1. All wastewater network upgrades required to accommodate the additional flows from the development have been completed; or
2. A development and infrastructure phasing plan has been agreed with the Local Authority in consultation with Thames Water to allow development to be occupied. Where a development and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan.

Reason - Network reinforcement works are likely to be required to accommodate the proposed development. Any reinforcement works identified will be necessary in order to avoid sewage flooding and/or potential pollution incidents.

9. No development shall take place until the applicant (or their agents or successors in title) has submitted to and had approved in writing by the local planning authority a programme of archaeological work consisting of a written scheme of investigation and a timetable for that work. The development shall thereafter proceed in accordance with the approved written scheme of investigation and timetable.

Reason: To secure the provision of archaeological investigation and the subsequent recording of the remains, to comply with Government advice in the National Planning Policy Framework (NPPF) (Section 16). This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

10. Following the approval of the Written Scheme of Investigation referred to in condition 9, and prior to any demolition on the site and the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority within two years of the completion of the archaeological fieldwork.

Reason: To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with the NPPF (2019)

11. No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are

submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Section 14 of the National Planning Policy Framework, and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii) include a timetable for its implementation; and
- iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason: To ensure that the development/site is served by sustainable arrangements for the disposal of surface water, to comply with Policy ESD6 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government advice in the National Planning Policy Framework.

12. No building hereby permitted shall be occupied until the sustainable drainage scheme for the site has been completed in accordance with the submitted details. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

Reason: To ensure that the development/site is served by sustainable arrangements for the disposal of surface water, to comply with Policy ESD6 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government advice in the National Planning Policy Framework.

13. No building hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme are submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:

- ii) a timetable for its implementation, and
- ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

Reason: To ensure that the development/site is served by sustainable arrangements for the disposal of surface water, to comply with Policy ESD6 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government advice in the National Planning Policy Framework.

14. No part of the development hereby permitted shall take place until a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model has been carried out by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and has been submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval that it is satisfied that no potential risk from contamination has been identified.

Reason: To ensure that any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

15. If a potential risk from contamination is identified as a result of the work carried out under condition 14, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

16. If contamination is found by undertaking the work carried out under condition 15, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

17. If remedial works have been identified in condition 16, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 16. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

18. If, during development, contamination not previously identified is found to be

present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

Reason: To ensure that any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

19. Prior to the first occupation of the development, a scheme for the provision of vehicular electric charging points to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The vehicular electric charging points shall be provided in accordance with the approved details prior to the first occupation of the dwelling they serve, and retained as such thereafter.

Reason: To comply with Policies SLE 4, ESD 1, ESD 3 and ESD 5 of the adopted Cherwell Local Plan 2011-2031 Part 1 and to maximise opportunities for sustainable transport modes in accordance with paragraph 110(e) of the National Planning Policy Framework.

20. The development hereby permitted shall be carried out in accordance with the recommendations set out in Preliminary Ecological Appraisal of the Land North of Station Road, Hook Norton by Harris Lamb Property Consultancy dated 11/01/2021 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect habitats and/or species of importance to nature conservation from significant harm in accordance with the Government's aim to achieve sustainable development as set out in Section 15 of the National Planning Policy Framework.

21. A method statement for enhancing the Biodiversity shall be submitted to and approved in writing by the Local Planning Authority prior to the development reaching slab level. Thereafter, the biodiversity enhancement measures approved shall be carried out prior to occupation and retained in accordance with the approved details.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within Section 15 of the National Planning Policy Framework.

22. Prior to first occupation of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the LEMP shall be carried out in accordance with the approved details.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within Section 15 of the National Planning Policy Framework.

23. Details of the provision, landscaping and treatment of open space/play space within the site together with a timeframe for its provision shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of

those works. Thereafter the open space/play space shall be landscaped, laid out and completed in accordance with the approved details and retained at all times as open space/play space.

Reason: In the interests of amenity, to ensure the creation of a pleasant environment for the development with appropriate open space/play space and to comply with Policy BSC11 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

24. No development shall take place until the existing tree(s) to be retained have been protected in the following manner unless otherwise previously agreed in writing by the Local Planning Authority;
- a) Protective barriers shall be erected around the tree(s) to a distance not less than a radius of 12 times the trunk diameter when measured at 1.5m above natural ground level (on the highest side) for single stemmed trees and for multi-stemmed trees 10 times the trunk diameter just above the root flare.
 - b) The barriers shall comply with the specification set out in British Standard BS5837:2012 'Trees in Relation to Construction – Recommendations' that is steel mesh panels at least 2.3m tall securely fixed to a scaffold pole framework with the uprights driven into the ground a minimum of 0.6m depth and braced with additional scaffold poles between the barrier and the tree[s] at a minimum spacing of 3m.
 - c) The barriers shall be erected before any equipment, machinery or materials are brought onto the site for the purposes of development [and / or demolition] and shall be maintained until all equipment, machinery and surplus material has been removed from the site.
 - d) Nothing shall be stored or placed within the areas protected by the barriers erected in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavations be made, without the written consent of the Local Planning Authority.

Reason: To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

25. A detailed drainage scheme to prevent surface water from the development being discharged onto the adjoining highway shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details prior to first use or occupation of the development hereby approved.

Reason: In the interests of highway safety and to comply with Policy ESD6 of the Cherwell Local Plan 2011 – 2031 Part 1

26. The landscaping scheme to be provided as part of the reserved matters submission shall show details of the landscape boundary along the eastern boundary of the development site to a depth of not less than 7.5 metres. The landscaping details shall show a mix of species of trees, hedgerow and plants to provide a screen for the site along its eastern and northern boundaries. The trees shall be to a height of not less than 3 metres and shall be completely implemented

within the first planting season following the first date on which any part of the approved development is completed.

Reason : To ensure that a satisfactory landscape scheme is provided in the interest of well planned development and visual amenity and to accord with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. OR

27. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development, or in accordance with any other program of landscaping works previously approved in writing by the Local Planning Authority and shall be maintained for a period of 5 years from the completion of the development. Any trees and/or shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.

Reason: To ensure that the agreed landscaping scheme is maintained over a reasonable period that will permit its establishment in the interests of visual amenity and to accord with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

28. Prior to the commencement of development above slab level, a design stage confirmation that the development shall be constructed to high environmental standards, demonstrating sustainable construction methods and measures to reduce impact on the environment shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure energy and resource efficiency practices are incorporated into the development in accordance with Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1, and the Government's aim to achieve sustainable development as set out in the National Planning Policy Framework.

29. The development shall be constructed so as to meet as a minimum the higher Building Regulation standard for water consumption limited to 110 litres per person per day.

Reason: The site is located in an area of water stress and therefore reaching a higher level of water efficiency is required to comply with Policy ESD3 of the Cherwell Local Plan 2011-2031.

CASE OFFICER: Wayne Campbell

Appendix 6

S4 - Oxford - Banbury

A bus service operated by Stagecoach Oxfordshire (SCOX)

Thursday 3 June 2021

Banbury Town Centre Bus Station - Oxford City Centre Magdalen Street

| | | | | | | | | | | | | |
|--|-------|-------|-------|-------|-------------------|-------|-------|-------|-------|-------|-------|-------|
| Banbury Bus Station (Bay 6) | 05:55 | 06:30 | 07:10 | 08:45 | | 14:45 | 15:45 | 16:45 | 17:45 | 19:00 | 20:15 | 21:45 |
| Calthorpe, o/s Horton Hospital | 05:59 | 06:35 | 07:18 | 08:53 | | 14:53 | 15:54 | 16:54 | 17:54 | 19:06 | 20:21 | 21:51 |
| Twyford Gardens (adj) | 06:05 | 06:41 | 07:25 | 09:00 | | 15:00 | 16:01 | 17:01 | 18:01 | 19:13 | 20:28 | 21:58 |
| W Adderbury, o/s Old Post Office | 06:08 | 06:44 | 07:28 | 09:03 | | 15:03 | 16:04 | 17:04 | 18:04 | 19:16 | 20:31 | 22:01 |
| Deddington, o/s Market Place Post Office | 06:15 | 06:52 | 07:36 | 09:11 | | 15:11 | 16:12 | 17:12 | 18:12 | 19:24 | 20:39 | 22:09 |
| Steeple Aston, o/s Post Office | 06:24 | 07:02 | 07:46 | 09:20 | then hourly until | 15:20 | 16:21 | 17:21 | 18:21 | 19:32 | 20:47 | 22:17 |
| Tackley, opp The Green | 06:34 | 07:13 | 07:57 | 09:30 | | 15:30 | 16:31 | 17:31 | 18:31 | 19:42 | 20:57 | 22:27 |
| Shipton on Cherwell Turn (o/s) | 06:39 | 07:19 | 08:03 | 09:35 | | 15:35 | 16:36 | 17:36 | 18:36 | 19:47 | 21:02 | 22:32 |
| Kidlington, o/s The Black Horse | 06:44 | 07:25 | 08:09 | 09:40 | | 15:40 | 16:41 | 17:41 | 18:41 | 19:51 | 21:06 | 22:36 |
| Summertown Shops (Stop C) | 06:54 | 07:40 | 08:24 | 09:52 | | 15:52 | 16:51 | 17:51 | 18:51 | 20:01 | 21:16 | 22:46 |
| Oxford Magdalen Street East (Stop C6) | 07:02 | 08:00 | 08:44 | 10:03 | | 16:03 | 17:02 | 18:02 | 19:02 | 20:10 | 21:25 | 22:55 |

Oxford City Centre Magdalen Street - Banbury Town Centre Bus Station

| | | | | | | | | | | | | | | | |
|--|-------|-------|-------|-------|-------|--------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| Oxford Magdalen Street (Stop C3) | | | 07:10 | 08:10 | 09:15 | | 14:15 | 15:15 | 16:15 | 17:15 | 18:15 | 19:15 | 20:30 | 21:45 | 23:15 |
| Summertown Shops (Stop B) | | | 07:17 | 08:18 | 09:23 | | 14:23 | 15:24 | 16:24 | 17:24 | 18:24 | 19:22 | 20:37 | 21:52 | 23:22 |
| Kidlington, opp The Black Horse | | | 07:29 | 08:31 | 09:35 | | 14:35 | 15:38 | 16:38 | 17:38 | 18:38 | 19:34 | 20:48 | 22:03 | 23:33 |
| Shipton on Cherwell Turn (opp) | | | 07:32 | 08:35 | 09:39 | | 14:39 | 15:42 | 16:42 | 17:42 | 18:42 | 19:38 | 20:51 | 22:06 | 23:36 |
| Tackley, o/s The Green | | | 07:40 | 08:43 | 09:46 | then | 14:46 | 15:49 | 16:49 | 17:49 | 18:49 | 19:45 | 20:58 | 22:13 | 23:43 |
| Steeple Aston, opp Post Office | | | 07:52 | 08:55 | 09:57 | hourly | 14:57 | 16:00 | 17:00 | 18:00 | 19:00 | 19:55 | 21:07 | 22:22 | 23:52 |
| Deddington, opp Market Place Post Office | 06:02 | 07:04 | 08:03 | 09:08 | 10:08 | until | 15:08 | 16:11 | 17:11 | 18:11 | 19:11 | 20:06 | 21:17 | 22:32 | 00:02 |
| W Adderbury, opp Old Post Office | 06:07 | 07:10 | 08:10 | 09:14 | 10:14 | | 15:14 | 16:17 | 17:17 | 18:17 | 19:16 | 20:11 | 21:22 | 22:37 | 00:07 |
| Twyford Gardens (opp) | 06:10 | 07:13 | 08:14 | 09:18 | 10:18 | | 15:18 | 16:21 | 17:21 | 18:21 | 19:19 | 20:14 | 21:25 | 22:40 | 00:10 |
| Calthorpe, opp Horton Hospital | 06:17 | 07:21 | 08:22 | 09:26 | 10:26 | | 15:26 | 16:29 | 17:29 | 18:29 | 19:24 | 20:19 | 21:30 | 22:45 | 00:15 |
| Banbury Bus Station (Arrivals) | 06:25 | 07:30 | 08:35 | 09:35 | 10:35 | | 15:35 | 16:38 | 17:38 | 18:38 | 19:29 | 20:24 | 21:35 | 22:50 | 00:20 |

Timetable data from Stagecoach Oxfordshire, 13 April 2021

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Appendix 7



Appeal Decision

Site visit made on 27 May 2021

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 1st June 2021

Appeal Ref: APP/C3105/W/21/3271094

Land at Bretch Hill, Balmoral Avenue, Banbury

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant outline planning permission.
 - The appeal is made by Lone Star Land Ltd against the decision of Cherwell District Council.
 - The application Ref 20/01643/OUT, dated 22 June 2020, was refused by notice dated 29 January 2021.
 - The development proposed is the erection of up to 49 homes, public open space, and other infrastructure.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 49 homes, public open space, and other infrastructure on land at Bretch Hill, Balmoral Avenue, Banbury in accordance with the terms of the application, Ref 20/01643/OUT, dated 22 June 2020, and the plans submitted with it, subject to the conditions in a schedule attached to this decision.

Procedural matters

2. The application was submitted in outline form with all matters, except for access, reserved for future consideration. The appeal will be determined on the same basis.

3. The address of the site and the description of the development (with the omission of the superfluous 'with all matters reserved except access'), as stated above, were those given on the application form. There are no reasons for using the address and description used by the Council.

4. The Council refused the application for five reasons in which they cited conflict with policies of The Cherwell Local Plan 2011-2031 (LP). The National Planning Policy Framework (NPPF) requires the Council to maintain a supply of land for housing "...sufficient to provide a minimum of five years' worth of housing against their housing requirement...". In a Statement of Common Ground (SoCG) dated 4 May 2021 it is stated that "...it is accepted that the Council cannot do so". Consequently, by virtue of paragraph 11(d) of the NPPF and Footnote 7 on page 6, and as stated in the SoCG, the aforementioned LP policies "...are 'out-of-date' and this appeal can only fail if the Council can demonstrate that any adverse effects of the proposal would significantly and demonstrably outweigh the benefits...". It is also stated that "The Council accepts that it cannot demonstrate this and that this appeal should be allowed". The Council has, in effect, withdrawn the five reasons for refusal of the application.

5. The appeal was set up to be determined following a Public Inquiry. However, the Council, given their changed position, would not be presenting any evidence and no other party has indicated that they wish to be heard at such an event. Under powers afforded by Section 319A(4) of the Town and Country Planning Act 1990 as amended, the Secretary of State has therefore decided that the appeal will proceed by the written representations procedure. Third party representations made at application and appeal stages will be taken into account. No party's position is prejudiced by the change in procedure.

Reasons

6. Local residents are concerned, as expressed in written representations made at application and appeal stages, about, amongst other things, the effect of traffic resulting from the proposed development on highway safety, the scale of development in Banbury, and their living conditions. Access to the development site is along Balmoral Avenue from its junction with Broughton Road. It was noted at the site visit that Balmoral Avenue, particularly after its junction with Dorchester Grove, rises steeply towards the proposed access into the site. Evidence indicates that the steepness of the road contributed to a lorry causing damage to a house a few years ago but the road is not so steep that there would be any significant safety concerns. The Highway Authority has not expressed any concern for the safety of traffic or other highway users, and traffic associated with a development of only up to 49 houses is not likely to result in significant harm to highway safety.

7. For the same reasons traffic associated with the proposed development would be noticed by residents of Balmoral Avenue but is not likely to have any adverse effect on their living conditions. Despite current ongoing housing developments in Banbury there is an identified need for further housing in the District that the Council is failing to provide for. The need for affordable housing is more acute than the need for market housing and the proposed development would include not less than 30% affordable units. To the east of the site is a concrete water tower and a high telecommunications mast. These are visually unattractive features of the area but are not an impediment to residential development of the site. The site has existing residential development to the north, south and east. The proposed development would not be visually intrusive and would not harm the character or appearance of the area.

8. All matters mentioned by local residents have been taken into account but they do not, either individually or collectively, alter the conclusion that the proposed development would not cause any significant harm to any matters of acknowledged importance.

Conditions and Planning Obligation

Conditions

9. The conditions in the schedule attached to this decision have been agreed by the Council and the Appellant but they have been amended, where necessary, to meet the tests set out in the Planning Practice Guidance (PPG) and in the interests of clarity, consistency and precision.

Unilateral undertakings

10. The Appellant has entered into a Planning Obligation, made under Section 106 of the Act, to mitigate the effects of the proposed development. The Obligation provides for the provision of affordable housing, the provision of open

space, the incorporation of a sustainable urban drainage scheme and its maintenance, and the payment of financial contributions towards schools, healthcare, bus services, highway and public rights of way improvements, a community hall, off-site indoor and outdoor sports facilities, and the provision of waste and recycling bins.

11. The District Council and the County Council have assessed the Obligation and have concluded that the obligations contained within it comply with Regulation 123(3) of the Community Infrastructure Levy Regulations 2010. The obligations are all necessary to make the development acceptable in planning terms. They are all, furthermore and in accordance with paragraph 56 of the NPPF, directly related to the development, are fairly and reasonably related in scale and kind to the development, and are in place to mitigate the effects of the development. The Legal Obligations therefore comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010.

Conclusion

12. The proposed development of up to 49 houses is required to contribute to the supply of housing in the District and the social and other impacts of the development are mitigated by planning obligations. The contribution to housing supply is a significant benefit and is not outweighed by any adverse impacts. Planning permission has thus been granted for the erection of up to 49 homes, public open space, and other infrastructure on land at Bretch Hill, Balmoral Avenue, Banbury, subject to the conditions in a schedule attached to this decision.

John Braithwaite

Inspector

Schedule – Conditions for Planning Permission 20/01643/OUT

1. No development shall commence until details of the layout (including the layout of the internal access roads and footpaths), scale, appearance, and landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.

Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

3. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended).

4. Except where otherwise stipulated by conditions attached to this permission the development shall be carried out strictly in accordance with Drawing No. RL01 Rev B - Site Location Plan and Drawing No. 20496-06 Rev A - Proposed Site Access Arrangements.

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

5. No development shall take place until details of all ground levels and finished floor levels in relation to existing and proposed site levels and to adjacent buildings have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To secure an acceptable standard of development that safeguards the visual amenities of the area and the living conditions of existing and future occupiers and to ensure compliance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance within Section 12 of the National Planning Policy Framework.

6. No development shall take place until a desk study, to include a site walk over and to identify all potential contaminative uses on site and to inform the conceptual site model have been carried out by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11', has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved desk study.

Reason: To ensure that any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site

is suitable for the proposed use to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

7. If a potential risk from contamination is identified as a result of the work carried out under condition 6, a comprehensive intrusive investigation to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. The report shall be submitted to and approved in writing by the Local Planning Authority before development is commenced.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

8. If contamination is found by undertaking the work carried out under condition 7, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. The scheme shall be submitted to and approved in writing by the Local Planning Authority before development is commenced.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

9. If remedial works have been identified in condition 8, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 8. A verification report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

10. No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and in general accordance with the principles of Drawing No. BAB-BWB-ZZ-XX-DR-CD-0004_S2-P2 (Amended Drainage Strategy) and including an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- a. Discharge Rates;
- b. Discharge Volumes;
- c. SUDS (Permeable Paving, Soakaway Tanks);
- d. Maintenance and management of SUDS features (to include provision of a SUDS Management and Maintenance Plan);
- e. Infiltration in accordance with BRE365;
- f. Detailed drainage layout with pipe numbers;

- g. Network drainage calculations;
- h. Phasing;
- i. Flood Flow Routing in exceedance conditions (To include provision of a flood exceedance route plan).

Development shall be carried out in accordance with the approved surface water drainage scheme.

Reason: To ensure that sufficient capacity is made available to accommodate the new development and in order to avoid adverse environmental impact upon the community and to ensure compliance with Policy ESD 7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework.

11. No development shall take place until full details of improvements to footpath 120/24 within the planning application site, including, position, layout, construction, drainage and a timetable for the delivery of the improvements, have been submitted to and approved in writing by the Local Planning Authority. The footpath shall be improved in accordance with the approved details before any dwelling is occupied and shall be retained as improved thereafter.

Reason: In the interests of highway safety and public amenity and sustainable development and to comply with Policies ESD1, ESD15 and Banbury 10 and Government guidance contained within the National Planning Policy Framework.

12. No development shall take place until full details of the means of access between the planning application site and the highway on Balmoral Avenue to the south of the site, including, position, layout, construction, drainage and vision splays, have been submitted to and approved in writing by the Local Planning Authority. The means of access shall be constructed in accordance with the approved details before any dwelling is occupied and shall be retained as constructed thereafter.

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

13. No development shall take place until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. The CTMP shall incorporate the following:

- a. The CTMP must be appropriately titled, include the site and planning permission number.
- b. Routing of construction traffic and delivery vehicles is required to be shown and signed appropriately to the necessary standards/requirements. This includes means of access into the site.
- c. Details of and approval of any road closures needed during construction.
- d. Details of and approval of any traffic management needed during construction.
- e. Details of wheel cleaning/wash facilities – to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway.
- f. Details of appropriate signing, to accord with the necessary standards/requirements, for pedestrians during construction works, including any footpath diversions.
- g. The erection and maintenance of security hoarding / scaffolding if required.

- h. A regime to inspect and maintain all signing, barriers etc.
- i. Contact details of the Project Manager and Site Supervisor responsible for onsite works to be provided.
- j. The use of appropriately trained, qualified and certificated banksmen for guiding vehicles/unloading etc.
- k. No unnecessary parking of site related vehicles (worker transport etc) in the vicinity – details of where these will be parked and occupiers transported to/from site to be submitted for consideration and approval. Areas to be shown on a plan not less than 1:500.
- l. Layout plan of the site that shows structures, roads, site storage, compound, pedestrian routes etc.
- m. A before-work commencement highway condition survey and agreement with a representative of the Highways Depot – contact 0845 310 1111. Final correspondence is required to be submitted.
- n. Local residents to be kept informed of significant deliveries and liaised with through the project. Contact details for person to whom issues should be raised with in first instance to be provided and a record kept of these and subsequent resolution.
- o. Any temporary access arrangements to be agreed with and approved by Highways Depot.
- p. Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours.

Development shall be carried out in accordance with the approved CTMP.

Reason: In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding highway network, road infrastructure and local residents, particularly at morning and afternoon peak traffic times.

14. Prior to first occupation of the development a Travel Information Pack shall be submitted to and approved in writing by the Local Planning Authority. The first residents of each dwelling shall be provided with a copy of the approved Travel Information Pack.

Reason: To ensure all residents and employees are aware from the outset of the travel choices available to them, and to comply with Government guidance contained within the National Planning Policy Framework.

15. Prior to its first occupation each dwelling shall be provided with ducting to allow for the future installation of electrical vehicle charging infrastructure

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

16. No development shall take place until full details of the proposed footpath joining the new development to the highway on Balmoral Avenue to the north of the site, including, position, layout, construction, drainage and a timetable for the delivery of the improvements, have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the footpath has been constructed in accordance with the approved details.

Reason: In the interests of highway safety and public amenity and sustainable development and to comply with Policies ESD1, ESD15 and Banbury 10 and Government guidance contained within the National Planning Policy Framework.

17. No development shall take place until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved CEMP.

Reason: In the interests of highway safety and the residential amenities of neighbouring occupiers and to comply with Government guidance contained within the National Planning Policy Framework.

18. No development shall take place until details of the means by which all dwellings shall be designed and constructed to achieve an energy performance standard equivalent to a 19% improvement in carbon reductions on 2013 Part L of the Building Regulations (unless a different standard is agreed with the Local Planning Authority) has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and no dwelling shall be occupied until it has been constructed in accordance with the approved energy performance measures.

Reason: In the interests of environmental sustainability in construction in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance in the National Planning Policy Framework.

19. No dwelling shall be occupied until it has been constructed to ensure that it achieves a water efficiency limit of 110 litres per person per day and shall continue to accord with such a limit thereafter.

Reason: In the interests of sustainability in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

20. No development shall take place, including any demolition and any works of site clearance, and as part of any reserved matters application for layout and landscaping, until a method statement and scheme for enhancing biodiversity such that an overall net gain for biodiversity is achieved, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of enhancement features and habitats both within green spaces and integrated within the built environment, shall be in general compliance with Enhancement Area – Ecological Management Plan, report reference: edp4380_r004, shall include a biodiversity impact assessment metric, and shall include a timetable for provision of the biodiversity enhancement measures. The biodiversity enhancement measures shall be carried out and shall be retained in accordance with the approved scheme.

Reason: To ensure the development provides a net gain in biodiversity in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

21. No development shall take place until a Landscape and Ecology Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved LEMP.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

22. Prior to the installation of any external lighting, a full lighting strategy to include illustration of proposed light spill and which adheres to best practice guidance, shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved strategy.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

23. The development hereby permitted shall be carried out in accordance with the recommendations set out in sections 6.2 to 6.8 of the Ecological Appraisal, report reference: edp4380_r002d, carried out by EDP dated June 2020.

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

24. No dwelling shall be occupied until approval has been given in writing by the Local Planning Authority that either:

a. Evidence to demonstrate that all water network upgrades required to accommodate the additional flows/demand from the development have been completed; or

b. A housing and infrastructure phasing plan has been agreed with Thames Water and the Local Planning Authority in writing to allow additional properties to be occupied. Where a housing and infrastructure phasing plan is agreed no dwelling shall be occupied other than in accordance with the agreed housing and infrastructure phasing plan.

Reason: The development may lead to no / low water pressure and network reinforcement works are anticipated to be necessary to ensure that sufficient capacity is made available to accommodate additional demand anticipated from the new development.