

**The Beeches Heyford Road Steeple Aston OX25  
4SN**

**19/01601/OUT**

**Case Officer:** Bob Neville

**Recommendation:** Refusal

**Applicant:** Adrian Shooter

**Proposal:** Erection of up to 8 dwellings with all matters reserved except the means of access on to Heyford Road.

**Expiry Date:** 31 October 2019

**Extension of Time:** 31 October 2019

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## **1. APPLICATION SITE AND LOCALITY**

- 1.1. The application relates to a residential property sitting at the rural edge of the village of Steeple Aston, and comprises a large two-and-a-half storey dwelling with brick and painted rendered elevations under a clay tiled roof, sitting within a substantial residential curtilage. To the north-east of the main dwelling towards the northern boundary is a single/two storey rendered outbuilding providing garage/workshop accommodation with home-office space at first floor level, and a further separate single storey timber-clad garage building. There a number of further outbuildings within the property associated with a narrow-gauge railway that has been developed within the extended residential garden of the property.
- 1.2. The existing dwelling sits to the south-west of residential properties within the village which front onto the Heyford Road. A further residential property (Orchard House) sits immediately to the east of the Beeches. The site is served by an existing access and private driveway which rises up from the Heyford Road. Land levels drop across the site from the north-west to the south-east, down to the adjacent highway. The site contains a number of significant trees and predominantly bounded by mature hedgerows again including mature trees, with paddock and open countryside beyond.
- 1.3. In terms of site constraints, whilst the site is not within the designated Steeple Aston Conservation Area, the boundaries of the Rousham Conservation Area lie adjacent to the east of the site. There are no listed buildings within the vicinity of the site. The site is within an area of high archaeological interest. The site is within a Minerals Consultation Area. The site sits within an area where the geology is known to contain natural occurring elevated levels of Arsenic, Nickel and Chromium; as seen across much of the district, and further, an area of higher probability (10-30%) of natural occurring Radon Gas being above Action Levels. A Public Rights of Way (ref. Footpath 364/8/10) crosses land west of the site. There are records of protected and notable species (including: Swifts and Eurasian Badgers) as being present within the vicinity of the site.

## **2. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 2.1. The current application follows the withdrawal of an earlier application (ref. 19/00457/OUT) for a similar proposal on the same site. This application seeks outline planning permission for the erection of up to 8no dwellings, with a vehicular access point being taken from the Heyford Road, largely utilising an existing access and private driveway. All matters aside from access are reserved for future consideration, which includes matters such as design, layout, scale and landscaping.
- 2.2. Whilst all matters aside from access are reserved, the applicant has submitted an Indicative Site Plan (Drwg. No. 101 Rev. C) which gives an indicative layout. The

detail of the indicative layout is further expanded upon in the supporting Design and Access Statement (DAS), which indicates that the existing dwelling house (The Beeches) would be retained with the existing narrow-gauge railway and associated buildings being removed and further existing garaging and office also being removed to facilitate the proposed development.

- 2.3. Whilst not for consideration at this stage, the DAS also states that in terms of scale *'it is envisaged that all the dwellings would be in two storeys in scale and would take reference from the historic core of Steeple Aston village in terms of their composition, appearance...'*
- 2.4. The DAS further states that the proposed development would look to provide the following mix and type of dwellings:
  - 1no. 2 Bedroom apartment over garage @c.845 sq ft;
  - 1no. 2 Bedroom semi-detached house @c.790 sq ft;
  - 1no. 3 Bedroom detached houses @c.1,010 sq ft;
  - 2no. 3 Bedroom detached houses @c.1,145 sq ft;
  - 1no. 5 Bedroom detached house @c.2,900 sq ft;
  - 2no. 5 Bedroom detached houses @c.3,000 sq ft;
- 2.5. Proposals detailed within the submitted Transport Statement also include a proposed pedestrian link from the site to the existing footpath network to the north of the site on the western side of the Heyford Road, albeit that this element falls outside of the application's redline site boundary.
- 2.6. The application has gone beyond its original target date, as a result of the applicant's agent requesting agreement to an extension to the determination period to allow for consideration of, and response to, consultee comments that were received towards the end of the original determination target date. The timeliness of consultee responses was largely as a result of delays experienced in the registration of the application (due to high volumes of applications being received by the Council), and as such the extension of time for the application was considered acceptable in this instance, given time constraints on the application, and to allow for the applicant the opportunity to attempt to address issues relating to the proposed development.

### 3. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
03/00075/F	Change of use of land to garden, dining room extension, enclosed swimming pool outbuilding and construction of a narrow gauge railway.	Granted
03/01943/F	Erection of a station pavilion and tractor shed	Granted
05/00840/F	Single storey rear extension	Granted
19/00457/OUT	Erection of up to 8 No dwellings with all matters reserved except the means of access onto Heyford Road	Application withdrawn

- 3.2. Application 19/00457/OUT was withdrawn (09/05/2019) prior to determination of the application, following advice to the applicant that the proposals were not considered acceptable in principle and that the application was to be refused.

#### **4. PRE-APPLICATION DISCUSSIONS**

- 4.1. Following the withdrawal of application 19/00457/OUT, discussions were held with the applicant through the Council's Pre-application Service (ref. 19/00167/PREAPP) in respect of the reasons for refusal proposed for application 19/00457/OUT, and how some of the issues (highways, housing mix and ecology) could potentially be overcome. Whilst no further amended plans were formally submitted to the Council for consideration discussions were held with regards to potential amendments to the scheme as previously submitted; however, the applicant was advised that such amendments would not likely overcome the in-principle objection to the proposed development.
- 4.2. Further discussions were held at the meeting about other options and an alternative development site area that utilised the site of the existing dwelling and potentially the adjacent property (Orchard House). Whilst the Council considered such proposals would likely be more acceptable, having a far better relationship with the existing pattern of residential development, the applicants were advised that further information would be required to allow for appropriate assessment of such proposals, before detailed comment could be made on such proposals. Pre-application response 19/00167/PREAPP issued 11/07/2019.

#### **5. RESPONSE TO PUBLICITY**

- 5.1. 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 **24 September 2019**, although comments received after this date and before finalising this report have also been taken into account.
- 5.2. One letter of objection has been received during the application, raising comments relating to the proposal's impact on residential amenity.
- 5.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

#### **6. RESPONSE TO CONSULTATION**

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

##### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 6.2. MID-CHERWELL NEIGHBOURHOOD PLAN FORUM (MCNPF): **Objects.**
- 6.3. STEEPLE ASTON PARISH COUNCIL: **No objections.**

##### STATUTORY CONSULTEES

- 6.4. LOCAL HIGHWAYS AUTHORITY: **No objections subject to conditions.**
- 6.5. MINERALS & WASTE AUTHORITY: **Objects**, on grounds of the proposed development contrary being contrary to Policy M8 of the adopted Minerals and Waste Local Plan.

##### NON-STATUTORY CONSULTEES

- 6.6. ARBORICULTURAL OFFICER: **No objections**, subject to further information being secured in respect of clear plans showing trees proposed for removal and retention, shading patterns and location of services, to allow for appropriate assessment; and further the need for an Arboricultural Method Statement to ensure future protection and health of retained trees.
- 6.7. ARCHAEOLOGY: **No objections**.
- 6.8. BUILDING CONTROL: **No comments to make**.
- 6.9. DESIGN AND CONSERVATION: **No comments received**.
- 6.10. ECOLOGIST: **No objections subject to conditions**, securing further details in relation to the protection of features ecological and biodiversity value and ensuring that the proposals would result in a net gain in biodiversity opportunities at the site; which it was considered was not currently demonstrated within the application submission, but given the context of the site is likely to be achievable.
- 6.11. LANDSCAPE OFFICER: **Objects**, considering the proposals to result in detrimental landscape and visual impact, particularly from the PRow to the west of the site.

## 7. RELEVANT PLANNING POLICY AND GUIDANCE

- 7.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

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

- 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
- 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
- C8: Sporadic development in the open countryside
- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- ENV1: Environmental pollution
- ENV12: Potentially contaminated land

#### Mid-Cherwell Neighbourhood Plan 2018 - 2031 (MCNP)

- PD1: Development at Category A Villages
- PD4: Protection of Important Views and Vistas
- PD5: Building and Site Design
- PH1: Open Market Schemes
- PH5: Parking, Garaging and Waste Storage Provision

### 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Rousham Conservation Area Appraisal 2018
- Steeple Aston Conservation Area Appraisal 2014
- Cherwell Residential Design Guide SPD (July 2018)
- Developer Contributions SPD (February 2018)
- Annual Monitoring Report (AMR) (December 2018)
- Housing Land Supply in Oxfordshire: Ministerial Statement of 12th September 2018
- Oxfordshire Minerals and Waste Local Plan: Part 1 – Core Strategy, (September 2017)
- Oxfordshire County Council: Local Transport Plan 4 (2015-2031)
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2010
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Oxfordshire Wildlife & Landscape Study 2004

## 8. APPRAISAL

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

- Principle of Development;
- Design and Impact on the Character of the Area;
- Impact on the Historic Environment;
- Highways Safety;
- Impact on Residential Amenity;
- Ecology and Biodiversity;
- Impact on local infrastructure.

*Principle of Development:*

- 8.2. As noted above the application comes following the withdrawal of a similar application ref. 19/00457/OUT, and the context of the site and the policy context against which the application is to be assessed has not significantly changed since the previous application.
- 8.3. The National Planning Policy Framework (NPPF) explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- 8.4. Paragraph 8 of the NPPF sets out the Government's view of what sustainable development means in practice for the planning system – the three strands being the economic, social and environmental roles. It is clear from this that as well as proximity to facilities, sustainability also relates to ensuring the physical and natural environment is conserved and enhanced as well as contributing to building a strong economy through the provision of new housing of the right type in the right location at the right time.
- 8.5. Policy PSD1 contained within the CLP 2031 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.
- 8.6. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that conflicts with the Local Plan should be refused unless other material considerations indicate otherwise (Para. 12).
- 8.7. Cherwell District Council can demonstrate a five-year supply of deliverable housing sites. In addition, the Written Ministerial Statement of 12th September 2018 provides for a temporary change to housing land supply policies as they apply in Oxfordshire. Until the adoption of the Joint Statutory Spatial Plan, the Oxfordshire Authorities are required to demonstrate a 3-year supply of deliverable housing sites (as well as meeting their requirements in respect of the Housing Delivery Test). As such, policies for determining the application are only to be considered out of date (in accordance with paragraph 11d – footnote 7 of the NPPF) where a 3-year supply of deliverable sites cannot be demonstrated. The presumption in favour of sustainable development, as advised by the NPPF, will need to be applied in this context.
- 8.8. Policy ESD1 of the CLP 2031 states that measures will be taken to mitigate the impact of development within the District on climate change. This will include; distributing growth to the most sustainable locations as defined by Policy Villages 1, and delivering development that seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce dependence on private cars.

- 8.9. Policy Villages 1 of the CLP 2031 provides a framework for housing growth in the rural areas of the district and groups villages into three separate categories (A, B and C). Steeple Aston is recognised as a Category A village where new residential development will be restricted to conversions, infilling and minor development within the built-up area of the settlement.
- 8.10. The MCNP establishes settlement boundaries for the Category A villages within the plan area and the application site falls outside of the identified settlement boundary of Steeple Aston. Therefore, the proposal does not gain any support for Policy Villages 1 of the CLP 2031, which only relates to development within the built-up limits of settlements.
- 8.11. Policy Villages 2 of the CLP 2031 is considered relevant only in so far as it details the Council's rural housing allocation. Policy Villages 2 allocates a total of 750 dwellings to 2031 across the District's 23 Category A settlements (this is over and above minor windfall developments within the built-up limits of the villages). This allocation is already committed, either through completions (271 as at 31 March 2019) or planning permissions (479 as at 31 March 2019, plus others since, including More recently the result of appeals having been allowed (including Tappers Farm, Bodicote in October 2019).
- 8.12. Notwithstanding the above, the proposals are for less than 10 dwellings and therefore do not find support under Policy Villages 2.
- 8.13. The proposals have not put been forwarded as a Rural Exception Site and therefore do not find support under Policy Villages 3.
- 8.14. Saved Policy H18 of the CLP 1996 sets out that a new dwelling in the open countryside will only be granted planning permission where it is considered to be essential for agriculture or another existing undertaking or where it meets the criteria for the provision of affordable housing and in either case where it does not conflict with any other policy in the development plan. I would not consider that open market housing would find support under Policy H18.
- 8.15. Policy PD1 of the MCNP relates to new development at Category A villages and states that any residential development which is outside the settlement areas of these villages must have particular regard to all the following criteria:
  - a) The site should be immediately adjacent to the settlement area
  - b) The site should not be the best and most versatile agricultural land and the use of previously developed land is particularly likely to be acceptable.
  - c) The development should conserve and, where possible, enhance the landscape.
  - d) The development should conserve and, where possible, enhance the special interest, character and appearance of the conservation areas and the significance of other heritage assets (see Appendix K: Heritage and Character Assessment).
  - e) The development should not give rise to coalescence with any other nearby settlement. This particularly applies to Steeple Aston and Middle Aston.
- 8.16. Assessing the proposals against these criteria in turn, officers consider the following points to be relevant:
  - a) The alignment of the defined settlement boundary site follows the boundaries of the curtilage of the adjacent property 29a Heyford Road to the north of the site. Whilst the boundary of the application site sits adjacent the settlement boundary at the eastern edge of the site, the site significantly extends beyond the western edge of the settlement boundary, and the majority of the proposed development would be sited to the west of the existing dwelling, beyond a tree-belt within the site, in what is considered in a location which is

somewhat divorced from the existing pattern of residential development and beyond the built-up limits of the village. These matters are discussed further below.

- b) The site is currently residential garden land in a rural location and recent case law has determined that such land could be considered as previously developed land (PDL). However, it is noted that there is limited built form within the majority of the site. That the site could be considered as PDL is not considered a turning factor either way.
  - c) The introduction of significant new residential development on the site would be contrary to the existing character and appearance of the site, notwithstanding existing fairly low-key buildings on the site, increasing the prominence of the built form intruding into the open countryside failing to conserve the valued rural landscape. These matters are again discussed further below.
  - d) It is considered that, given the location and context of the site in respect of nearby heritage assets, the proposals would not likely result in significant detrimental impacts on these heritage assets or the setting of such (see later in this report)
  - e) The proposals would not give rise to coalescence with any other nearby settlement.
- 8.17. This current application introduces no further considerations in respect of the principle of development above those previously assessed under the previous application 19/00457/OUT.
- 8.18. It is therefore concluded that the proposals conflict with the provisions of Development Plan policies Policy PD1 of the MCNP, Policy Villages 1 and Policy Villages 2 of the CLP 2031 and Saved Policy H18 of the CLP 1996; and as such the proposals would be contrary to the Council's rural housing strategy and associated policies, and are unacceptable in principle.

*Design and Impact on the Character of the Area:*

- 8.19. 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.
- 8.20. These aims are echoed within Policy ESD15 of the CLP 2031 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"*.
- 8.21. 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.
- 8.22. The Council's Residential Design Guide SPD seeks to ensure that new development responds to the traditional settlement pattern, character and context of a village. This includes the use of continuous building forms along principle routes and adjacent to areas of the public open space, the use of traditional building materials and detailing and form that respond to the local vernacular.

- 8.23. Policy ESD13 of the CLP 2031 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.
- 8.24. Whilst it is acknowledged by officers that this is an outline application, and therefore the site layout is indicative, given the context of the site, the numbers proposed, and existing dwelling to be retained on the site it is likely that any proposed development would come forward as set out within the application documentation or in a similar layout and siting.
- 8.25. Whilst all matters aside from access are reserved for future consideration, the principle and quantum of development remains as previously proposed under 19/00457/OUT. The application differs from the previous submission by way of a reconfigured indicative layout and a reduction in the proposed footprint of plots 3-5; reflecting an alternative mix of dwellings as previously proposed. However, it is considered the revised submission has not overcome concerns previously raised by officers in respect of the proposed development being visually divorced from the existing built up limits of the village, visually intruding to the valued rural landscape. And it is unlikely that a revised layout within the confines of the proposed site boundary would overcome these concerns.
- 8.26. The Council's Landscape Officer has again assessed the proposed scheme and associated supporting information, concluding that the proposed development would cause harmful landscape and visual impact, and officers see no reason not to agree with this professional assessment.
- 8.27. The existing dwelling sits within the site and is largely screened to views from the public domain by existing natural screening and the topography of the surrounding land. The western part of the site sits within tranquil open countryside and as noted within the submitted LVIA is visible from the PRoW to the west of the site. Further, whilst not a formally designated PRoW it was also evident that an informal footpath route existed along the southern boundary of the site, and the proposed development would also be experienced from this route.
- 8.28. Given the level of detail submitted with the application, particularly with scale, layout, landscaping and appearance all being reserved matters, a full and detailed assessment of the impact on visual amenities cannot be undertaken at this stage. However, as noted above the site is considered to be beyond the built-up limits of the village and whilst there is development on the site, this is fairly low key associated with the existing residential use; any significant new residential development of greater scale on the site will likely be visible above existing boundary hedgerows and represent an expansion of the built form, intruding into the open countryside.
- 8.29. The landscape around the site is located within the Farmland Slopes & Valley Sides character type within the Oxfordshire Wildlife & Landscape Study (OWLS) 2004.
- 8.30. The OWLS note that the Farmland Slopes & Valley Sides is characterised by '*A landscape type with prominent slopes within broader valleys. It is occupied by a mixed pattern of pasture and arable land. Long-distant views across the valleys are characteristic.*' The OWLS set out that the key characteristics comprise of:
- *Prominent slopes and valley sides interrupted by a number of small, narrow v-shaped valleys.*
  - *Large arable fields on the gentler slopes and small pasture fields on the steeper slopes and steep-sided valleys.*

- *A well-defined pattern of tall hedges and hedgerow trees.*
- *Small woodland copses and belts on steep slopes and along watercourses in the minor valleys.*
- *Small unspoilt villages with rural character.*

- 8.31. Land west of the site is located within the Wooded Estatelands character type within OWLS 2004. This neighbouring character type would not be directly affected by the proposed development.
- 8.32. The Council's Countryside Design Summary (CDS) (1998) encourages sensitive and appropriate development across the District and looks to guide development in the rural areas so that the distinctive character of the district's countryside and the settlements and buildings within it are maintained and enhanced. This divides the Cherwell District into four broad areas and this site is identified as lying within the Cherwell Valley area. The character analysis within the CDS describes the landscape of the area as *'A loose patchwork of fields remain with strong field patterns concentrated on steeply undulating land and close to villages. These fields are bounded by mixed thorn hedgerows, many of which contain oak trees. Wet pasture on the valley floor gives way to arable farmland on the valley slopes and upland areas.'*
- 8.33. With regard to the implications for new development in respect of settlement pattern the CDS sets out that, in part, new development should reflect the landscape setting of villages, by not encroaching beyond any topographical, visual or environmental limits.
- 8.34. The rural edge of village site is bounded by mature hedgerows and trees, with further significant tree coverage within the site, which provides a natural boundary and screening within the site between the existing dwellinghouse and the garden area, that is largely given over to the narrow-gauge railway. The indicative layout indicates that the majority of the development (plots 3-8) sitting beyond this natural screening, appearing as a somewhat isolated arrangement of what are likely to be substantial two storey dwellings, away from not only the properties within the village, but also divorced from the existing host dwelling; contrary to, and failing to integrate with the existing pattern of residential development within the village and the existing community.
- 8.35. The submitted Landscape Visual Impact Assessment (LVIA) concludes at para. 11.4 that the proposals would have a low visual impact and that no features of landscape sensitivity would be lost, considering that the proposed development could be visually contained through an appropriate landscape strategy with enhanced landscaping along the boundaries of the site. However, officers disagree with this conclusion and consider that the LVIA significantly underestimates the potential visual impacts of the proposed development.
- 8.36. The LVIA demonstrates potential views of the site from the PRoW to the west (notably Photoviewpoint 11) and that the existing railway station within the site was visible from this viewpoint. The existing railway station is a relatively low key unassuming single storey building that sits at a lower level (some 2m) than the levels at the western edge of the site. Whilst the existing buildings sit relatively comfortably within the site and do not generally intrude into the rural landscape, it is considered that the development of significant residential development (likely to be large two storey dwellings) would not have the same sympathetic relationship; appearing as isolated residential development detrimentally impacting on the relatively rural context of the site, visually intruding into the valued open countryside.
- 8.37. In the assessment of 19/00457/OUT the Council's Landscape Officer noted that given the siting and orientation of the plots the gardens to plots 4, 5, 6, 7 and 8 would 'suffer' from overshadowing (an issued also raised by the Council's

Arboricultural Officer) and would be a constraint to the proposed development. Whilst the indicative layout has been amended this remains an issue in respect of plots 6, 7, and 8 as now proposed. Because the boundary hedgerows to the west and south would likely be subjected to different owners maintaining them, the hedgerows would likely mean that they would be cut at different heights, or even removed; potentially to reduce shading to the rear elevations and gardens of these properties. This would result in impoverished hedgerow and harmful to the landscape character; further resulting in the visual exposure of the proposed dwelling units and direct harmful impact and effect on the landscape receptor and visual receptors on the PRow 364/8/10 to the west, making the site more visually prominent and harmful.

- 8.38. In drawing a conclusion on this matter, whilst layout is not for consideration at this stage, and the submitted plans are only indicative it is considered that, given the constraints of the site, development would likely come forward as indicated, or of a similar layout, and as such the proposals would result in the development of a group of large residential dwellings that would be visually divorced from the existing built up limits of the village, visually intruding to the valued rural landscape. The proposed development would not be compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity site and would fail to reflect or reinforce local distinctiveness, detrimentally impacting on the character and appearance of the rural context of the site and edge of village setting; contrary to the provisions and aims of the Development Plan policies identified above and National guidance within the NPPF.

*Impact on the Historic Environment:*

- 8.39. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the Local Planning Authority gives special regard to the desirability of preserving a listed building or its setting.
- 8.40. Paragraph 189 of the NPPF states that: *“In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance.”*
- 8.41. Paragraph 193 of the NPPF states that: *“When considering the impacts of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”* Paragraph 194 of the NPPF goes on to state that: *“Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification.”*
- 8.42. Paragraph 196 of the NPPF states that: *“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”*
- 8.43. Policy ESD15 of the CLP 2015 states that new development proposals should: *“Conserve, sustain and enhance designated ‘heritage assets’ (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG.”*
- 8.44. The application site is not within a designated conservation area and there are no listed buildings within the immediate vicinity of the site. The Rousham Conservation Area (CA) boundary lies adjacent to the Heyford Road east of the site, whilst the Steeple Aston Conservation Area boundary lies some 230m to the north of the site.

- 8.45. Whilst it is again acknowledged by officers that this is an outline application, and therefore the site layout is indicative, given the constraints of the site and based on the indicative layout plan it is likely that the proposed development would be set away from the boundaries of the Rousham CA with existing buildings and landscaping on intervening land.
- 8.46. The proposals would require alterations at the access onto the Heyford Road and the creation of a new footpath link, sitting adjacent the Rousham CA. However, it is considered that such alterations would not likely be so significant or to the detriment of visual amenities to the extent that it would significantly impact on the setting of the adjacent CA.
- 8.47. Overall it is considered that the proposed development would not result in any significant detrimental impacts on the character and appearance of the Rousham CA or its setting, and would thus accord with Policy ESD15 of the CLP 2031 and Government guidance within the NPPF in this regard.

#### Highways Safety:

- 8.48. 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.
- 8.49. The NPPF (Para. 108) advises that in assessing specific applications for development, it should be ensured that:
- appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
  - safe and suitable access to the site can be achieved for all users;
  - and 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.
- 8.50. 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 the development and which have a severe traffic impact will not be supported”*.
- 8.51. The LHA raises no objections to the application subject to several conditions to secure further information and details in relation to the proposed access, driveway and turning area and cycle parking provision and further ensuring the provision of new permanent public footpaths and a construction management plan. Subject to acceptable details being approved the LHA considers that the proposals would not have an adverse impact on local highway safety. Officers see no reason not to agree with this assessment.
- 8.52. Concerns were previously raised during application 19/00457/OUT with regards to the proposed access to the development not being acceptable and the lack of pedestrian connectivity from the site back into the village. These matters have been addressed in the current submission, with plans demonstrating that safe access with appropriate vision splays and can be achieved and further a pedestrian link could be achieved; details of which are included within the submitted Transport Statement.

8.53. It is considered the LHA's requirements could be secured by way of appropriate conditions and legal agreements, and that therefore the proposals could be considered acceptable in terms of highway safety had the Council be minded to approve the application.

*Impact on Residential Amenity:*

8.54. Para. 180 of the NPPF advises of the need Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

8.55. 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 2031 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*'.

8.56. The application is in outline only. Any detailed proposals would need to have due regard to requirements of Section 6 of the Cherwell Residential Design Guide SPD (CRDG) with regard to appropriate standards of amenity for both existing and future residents. Whilst the indicative layout appears to demonstrate that an acceptable living environment could potentially be developed, appropriate positioning and scale of dwellings, boundary treatments and the nature of such treatments could be given due consideration at reserved matters stage.

8.57. In terms of potential impacts on residential amenity concerns have been raised by a local resident (27 Heyford Road north of the site) in objection to the application, with regard to potential detrimental impacts on their amenity through over-looking and noise and disturbance during construction.

8.58. As noted above the majority of the proposed development would be physically divorced from existing properties and would not likely have a direct impact on existing residential amenity.

8.59. Having regard to third party comments, the plots considered to have the greatest potential impact on neighbouring properties would be plots 1 & 2 which would be sited in excess of 35m south-west from the rear of 29a Heyford Road (nearest property to the north of site). This separation distance is considered appropriate having regard to the guidance within the CRDG. As noted above the proposed site is bounded by existing hedgerows and trees along the northern boundary and it is indicated that this boundary is to be retained going forward; this would provide natural screening of the site and assist in providing appropriate levels of privacy to both existing neighbouring residents and potential future occupants.

8.60. In respect of noise and disruption during construction it is considered that such impacts are unlikely to be significant and would only likely be short-term in their nature, and not something that would warrant a reason to refuse the application.

8.61. In drawing a conclusion on the matter of residential amenity, based on the information submitted it is considered that given the context of the site and its relationship with neighbouring properties that it is unlikely that there would be any significant impact on neighbour amenity in terms of loss of light, loss of privacy or over domination as a result of the proposed development. Further that the proposed development would likely provide an acceptable standard of living for potential future occupants. However, this would need to be fully assessed during any detailed application, had the Council been minded to approve the application and a subsequent Reserved Matters then been submitted.

*Ecology and Biodiversity:*

- 8.62. 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.
- 8.63. 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.
- 8.64. 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.
- 8.65. 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.
- 8.66. 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).
- 8.67. 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.
- 8.68. 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.

- 8.69. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 8.70. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 8.71. This policy is 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.
- 8.72. 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.
- 8.73. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:
- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development
- 8.74. It also states that LPAs can also ask for:
- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
  - an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')
- 8.75. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site whilst not considered to contain any significant features of ecological and biodiversity value there are a number of mature trees and hedgerows that bound the site, and therefore has the potential to be suitable habitat for bats, breeding birds and badgers.
- 8.76. In order for the local planning authority to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, local planning authorities must firstly assess whether an offence under the Regulations is likely to be committed. If so, the local planning authority should then consider whether Natural England would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.

- 8.77. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/very likely that Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.
- 8.78. The site is considered to be of some ecological potential and offers opportunities for biodiversity at the site. As with the previous application 19/00457/OUT the proposals are supported by a detailed Ecological Impact Assessment (EIA) prepared by 'Ecolocation' which identified that the site was found to have potential to support a number of protected species including badgers and bats and nesting birds. The EIA is supplemented by Bat Assessment again prepared by 'Ecolocation' with this current application; in part addressing a lack of information within the previous submission.
- 8.79. The Council's Ecologist (CE) has reviewed the EIA report and associated Bat Survey and considers the submitted ecological information, its conclusions and recommendations are largely acceptable with regards to protected species and retained habitats.
- 8.80. However, given the nature of this outline application it is considered that there remains a lack of specific detailed information at this stage. The CE advises that a Construction Environmental Management Plan (CEMP) for biodiversity would be needed with Ecological protection zones clearly marked, and that further information would be required in respect of boundary treatments and how the buffered and fenced areas of the most valuable vegetation would be managed long term, to ensure that the development does not cause harm to any protected species or their habitats; but that this could be secured through an appropriate Landscape Environmental Management Plan (LEMP).
- 8.81. The Ecologist also considers that the submitted information is insufficient in terms of its assessment and proposed enhancements to demonstrate that the proposed development would provide a net gain in Biodiversity opportunities at the site rather than just mitigating loss that would be caused by the proposed development. However, in this respect it is considered that appropriate information could be secured by way of appropriate condition, should the Council be minded to approve any such application, and therefore the lack of biodiversity enhancement is not considered to constitute a reason to refuse the application in this instance.
- 8.82. Officers are satisfied, on the basis of the advice from the Council's Ecologist and subject to conditions, that had the Council been minded to approve the application that 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, could be met and discharged.

*Impact on local infrastructure:*

- 8.83. 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."*
- 8.84. 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.”*

- 8.85. The proposals exceed the threshold which requires open space provision to be included within any proposed development scheme required under CDC Policy BSC11. It is considered that such a requirement should be applied as landscape buffer to the southern and western boundary/hedgerow/reinforcement planting where it is maintained by a single body, such as the Parish Council. Landscaping is reserved for future consideration, and officers are satisfied that appropriate open space could be incorporated within any detailed scheme to address this issue.

*Other matters:*

- 8.86. The Minerals and Waste Authority (MWA) has raised an objection to the application; as was their position initially adopted on the previous application 19/00457/OUT. Previously the objection was withdrawn by the MWA following a further review of the context of the site and in light of a rebuttal statement put forward by the applicant. The MWA previously concluded that: *‘The application site itself is in residential use and is not available for possible mineral working; and there are existing constraints on possible future mineral working within the area of agricultural land to the west of the application site. In view of these factors, any additional indirect sterilisation that would result from the proposed housing development is likely to be small and not significant enough to justify an objection to this development on mineral safeguarding policy grounds’.*
- 8.87. The context and boundaries of the site and the nature of the proposed development has not changed since the previous application 16/00457/OUT, and officers see no reason for the change in the position of MWA. Whilst at the time of the preparation of this report no formal response had been received from the MWA in respect of clarifying their position on the current application, in light of previous comments, it is considered that a reason to refuse the application on the grounds of potentially impacts on future mineral extraction and the proposals being contrary to Policy M8 of the adopted Minerals and Waste Local Plan cannot reasonably be sustained in this instance.

## **9. PLANNING BALANCE AND CONCLUSION**

- 9.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 9.2. Given the above assessment in the light of current guiding national and local policy context, it is considered that proposals represent an inappropriate form of development beyond the built-up limits of the village, for which no essential or identified need has been demonstrated. Whilst the proposals are considered acceptable in terms of highway safety, residential amenity and any potential neighbour impacts, and could likely be made acceptable in terms of biodiversity enhancements, it is considered that they fail to preserve the overriding character and appearance of the area or reflect or reinforce local distinctiveness by introducing residential development which would be contrary to the existing pattern of development within the area and would visually intrude into the open countryside.
- 9.3. There remains a need 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 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.

- 9.4. The proposals would provide additional housing (attracting significant weight) and likely to provide some economic benefits to the local construction industry during construction (limited to moderate weight). However, it is considered that the proposals demonstrate clear conflict with the provisions and aims of the housing policies of the Development Plan, including those of the recently adopted Mid-Cherwell Neighbourhood Plan (attracting substantial weight), and so the weight to be attributed to the benefit of providing additional housing is reduced. In addition to this conflict, it is considered that there would be significant adverse impacts to the natural environment (substantial weight), through intrusive development which fails to reflect or reinforce the local distinctiveness, which further conflicts with the environmental and sustainability policies of the Development Plan. As such it is considered the harm and conflict with development plan policy clearly outweighs any benefits in this case.
- 9.5. The proposals are therefore considered contrary to the above-mentioned policies and as such the application is therefore recommended for refusal for the reasons set out below.

## **10. RECOMMENDATION**

That permission is refused, for the following reasons:

1. The proposed development represents new housing that would significantly encroach into the countryside beyond the built-up limits of Steeple Aston, contrary to the housing strategy of the Development Plan for the area, for which it has not been demonstrated that there is a justified need. In its proposed location the development would therefore be an unjustified and unsustainable form of development. As such the proposal is contrary to Policy ESD1 and Villages 1 of the Cherwell Local Plan 2011-2031 Part 1, Saved Policy H18 of the Cherwell Local Plan 1996, Policy PD1 of the Mid Cherwell Neighbourhood Plan 2018 and Government guidance contained within the National Planning Policy Framework.
2. The proposed development represents inappropriate 'back-land' development that would fail to relate well to the pattern of development in the area and would appear as an intrusion of built form into the countryside, detracting from the rural character and quality of the area the setting of the village. As such the proposal is contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996, and Government guidance contained within the National Planning Policy Framework.

Case Officer: Bob Neville

DATE: 30/10/2019

Checked By: Nathanael Stock

DATE: 31.10.2019

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