

APPENDIX 1

Planning Authority's Pre-Application Advice

dated 30th March 2022

Planning and Development

David Peckford, Assistant Director – Planning and Development



Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

D2 Planning Limited
Mr D S Dunlop
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www.cherwell.gov.uk

Please ask for: **Wayne Campbell**

Direct Dial:

Email: wayne.campbell@cherwell-dc.gov.uk

Our Ref: **21/02844/PREAPP**

30th March 2022

Dear Mr Dunlop,

Thank you for your enquiry with regard to the proposed development of 6no age restricted dwellings at land south of Faraday House, Woodway Road, Sibford Ferris. The site is located on the edge of Sibford Ferris and although enclosed on three sides by either existing or approved residential development the site is technically located within an area of open countryside. It is considered that the main issues relating to your proposal are:

- § Principle of development
- § Design, and impact on the character of the area
- § Highway impact
- § Flooding / drainage impact
- § Residential amenity
- § Sustainable Construction
- § Ecology

PRINCIPLE

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. In determining the acceptability of the principle of new dwellings regard is paid to Government guidance contained within the National Planning Policy Framework (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.

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are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for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*.

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*. 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.

Section 5 of the NPPF covers the issue of delivering a sufficient supply of homes, and paragraph 60 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 64 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.

Paragraph 74 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.

In terms of the Local Plan Policies 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 Part 1 (CLP 2015) and the saved policies of the Cherwell Local Plan 1996 (CLP 1996).

Sibford Ferris is allocated as a Category A village and 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). Grouped with Sibford Gower and Burdrop, Sibford Ferris is considered one of the more sustainable settlements in the District's rural areas having physical characteristics and a range of services across the cluster of three settlements to enable it to accommodate some limited extra housing growth. In order to meet the areas housing needs Policy Villages 2 of the CLP Part 1 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*. However, as the site is located outside the limits of the village, the proposal conflicts with Policy Villages 1 and, being less than 10 dwellings, it does not find support from Policy Villages 2.

In considering Cherwell's position on five-year housing land supply is reported in the Council's 2021 Annual Monitoring Report (AMR). The 2021 AMR demonstrates that the District can demonstrate a 3.8 year supply for the current period 2021-2026 and a 3.5 year supply for the next five year period (2022-2027) commencing on 1 April 2022. The calculations also highlight that there is a shortfall of housing supply equal to 1864 for the period 2021-2026 and 2255 for the period 2022-2027. Although your proposals are only for a small development of 6 bungalows, the proposal will make a contribution towards the provision of dwellings within then District.

For development of less than 10 units, Policy BSC1 sets a "windfall" of 754 houses in the rest of the district outside Bicester and Banbury. The 2021 AMR shows that at 31st March 2021 the level of Windfall Allowance (for <10 dwellings) stands at 770 completions with a further 217 having planning permission. The current position shows the level of windfall development in the rural area has passed the 754 set in Policy BSC1. The proposed development would increase the level of rural dwellings further. However, the figure is not a ceiling and in my opinion, given the Council's housing land supply position, exceeding the figure with a small development of six dwellings is not a reason to warrant a refusal in this instance. As with all new development in considering the level of development the key issue is the impact of the development on the area and other material considerations around the development

Saved Policy H18 of the CLP 1996 outlines criteria under which new development will be considered against. The proposed development would not provide essential agricultural housing and is not considered to represent a rural exception housing site providing an element of affordable housing. This weighs against the development of this site for the 6 bungalows.

The site is not previously developed land and is located within an area of Grade 2 (possibly Grade 1 according to the Council's GIS mapping) agricultural land. This would weigh against the proposal though it has to be acknowledged that the site to the south which was granted permission at appeal. In considering the appeal the Planning Inspector held that, *although the proposals would involve the loss of Grade 2 agricultural land, this has to be balanced against the benefits which the proposals could make to the provision of additional housing*. The appeal proposal was for a significantly larger number of dwellings on the site and hence a larger area of agricultural land lost to development than the current proposal. It is considered that the conclusions of the Planning Inspector are a material consideration and that the benefit of the additional 6 bungalows has to weigh against any refusal on the grounds of lost agricultural land in this instance.

Notwithstanding the fact that the site is set between the existing dwellings to the north, east and approved residential development to the south the site still represents an area outside the built form of the village. Any access to the site could only be obtained via the site to the south as the access track to the west is not suitable. With the development of the site to the south it is reasonable to question the suitability of the site to remain in agricultural use and its value as a separate agricultural field. In my opinion, due to the development on three sides of the site together with the defined boundary of the single access track to the west, the site would appear as a natural in-fill area. However, this is not to suggest that the development would be guaranteed and that the impact of the development on the area, neighbours' amenities and highway implications all need to be considered in weighing up the impact of the development in terms of paragraph 11(d) of the NPPF.

In conclusion although it is accepted that the proposal conflicts with Policy Villages 1 and Saved Policy H18 and does not find support from Policies BSC1 or Villages 2, conflicting with some of the latter's criteria. However, the Council's housing land supply position means that reduced weight is afforded to these Local Plan policies for the supply of housing. In light of the Council's housing land supply position and the allowed appeal to the south, the principle of the development would be considered acceptable.

DESIGN, AND IMPACT ON THE CHARACTER OF THE AREA

Your enquiry seeks advice on the development of an agricultural field for 6 no age restricted bungalows. The site is undeveloped land located outside of the existing built form of Sibford Ferris village but with existing residential properties to the north, east and approved residential development to the south and on which a reserved matters application is currently being considered. All three boundaries are marked by a mix of landscape features and the proposal would seek to retain and hence the landscape along these boundaries.

The site is currently an area of agricultural land with no built form and as such the proposal to build 6 bungalows would result in a significant change in the character of this part of the village. That said the proposed development is for single storey dwellings, and the existing landscaping along the edge of the site which forms the edge boundary to the village would be retained and would form an effective screen to the development helping to soften the appearance and impact from outside the site. The existing landscaping would be a more effective screen for the current proposal than it would for two-storey dwellings, which would be visible from footpaths to the north and west.

Although at the time of our meeting no layout was provided details of the proposed layout were provided subsequently. This layout showed the proposal for a single access road feeding off the access road to serve the new residential development to the south of the site. Once within the site the access road would split into two private driveways one serving the north of the site and a second separate driveway to the south. The 6 bungalows would all front onto one of the private driveways in an arc form with the rear elevations all facing towards a central communal rear garden space. Although the main area to the rear of the bungalows would be the communal landscape garden each bungalow would also maintain a small private rear garden area with privacy fencing between the plots.

Overall, subject to the use of appropriate materials, the proposal for 6 bungalows on this site is considered to represent an acceptable form of development in terms of design and appearance. The retention and enhancement of the landscaping boundary to the site would ensure that the appearance of the development would be softened and would not appear out of place nor overbearing development on the edge of the village.

HIGHWAY IMPACT

The pre-application shows that the access to the site would be obtained via the adjoining site to the south which has approval via an apparel for up to 25 dwellings. This access would allow a link onto Hook Norton Road although it is also accepted that the access to the site is dependent upon the approval and construction of the access through the adjoining estate. During our meeting the issue over a potential access ransom strip was discussed and your client advised that there was no ransom and that a clear access into your site was in place.

Within the site is noted that the access splits into two separate private drives, one serving the north of the site while the second serves the south. In considering this arrangement the Local Highway Authority (LHA) has advised that apart from tracking for a refuse vehicle to turn in the south-east corner, which you have already identified, their comments are limited to the following:

1. *The cover letter states that some visitor parking will be accommodated, but I don't see any. The requirement depends on the number of bedrooms but is likely to be three bays, ideally distributed across the site.*
2. *There needs to be a turning area outside plots 3 and 4 to cater for delivery vans, fire engine, etc. as well as the plot 3 occupants.*
3. *The applicant should be made aware of the Oxfordshire Street Design Guide, which has been adopted but has not yet been officially published. The most up-to-date version may be found here CA_SEP2121R11 - Annex 1 - Draft 05365 OCC Street Design Guide v4.pdf (oxfordshire.gov.uk)*
4. *I would like to see a pedestrian access out to Woodway Road in the north-west corner. This will open up a route for residents of this development, and the 25-dwelling development to the south, to the Public Rights of Way 347/1/10 and 347/3/10. It will also create an alternative, slightly shorter, pedestrian route to the bus stops in the village. Connectivity is one of the most important themes in the OSDG.*
5. *Each plot will require EV charging points.*

Based upon the details provided and on the comments of the County Highway Engineers it is considered that a satisfactory access to the site and the public highway can be provided. This is, however, based on the details provided and that a vehicular access off Woodway Road would not be provided into the site. We would encourage the provision of a footpath access onto Woodway Road to provide optimal connectivity.

FLOODING / DRAINAGE IMPACT

The site is not located within a flood risk area and as such a flood risk assessment would not be required in support of any planning application. Notwithstanding this as the proposal would result in the loss of a green field / agricultural field and its replacement with 6 bungalows any planning application should be supported by a drainage strategy. The purpose of this strategy is to ensure that the site and development does not result in any increased surface water flooding on the site or on any adjoining sites.

RESIDENTIAL AMENITY

From the details submitted and from a site visit it is clear that the site shares a common boundary with existing residential properties to the north and the east. These boundaries are marked by a mix of open style fences and existing landscaping.

As the layout of the development is for the bungalows which would face towards the shared boundaries there is the potential that the development would result in a loss of privacy to these existing residential properties. However, the distance between the front of the nearest bungalow and the shared boundary is in the region of 14 metres with a further 20 metres before the rear elevation of the existing property. This distance together with the fact that the proposal is for a bungalow would ensure that an adequate distance would be maintained to ensure that the development would not result in any significant loss of privacy or outlook or light pollution.

Given the above, it is considered that the development is acceptable in residential amenity terms, both for existing residents neighbouring the site and future occupiers. The development therefore complies with the adopted Policies.

Sustainable Construction

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.*

Any application submitted would need to demonstrate that the proposal complied with this Policy.

ECOLOGY

As the site is located within an area of open countryside and its present use is as a n agricultural field, any application would need to be supported by an ecology assessment. This assessment should consider the potential impact of the development upon any ecology on or near the site and should include assessment for bats, mammals and birds. Without a full assessment the planning application would not be able to be considered fully and is unlikely to be considered favourably.

CONCLUSION

This pre-application enquiry seeks advice on the development of an agricultural field with 6 detached bungalows which will be aged restricted in terms of use. The site is located outside the built form of the village and therefore is considered an area of open countryside.

Having regard to the Council's current housing land supply position, i.e. less than a 5-year housing land supply, Paragraph 11(d) 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.

The AMR 2021 highlights that the delivery of developments under 'windfall' developments over the plan period is now at a position where the total number of housing completions and the number of dwellings permitted at sites where development has commenced has exceeded 754 dwellings at 771. In my opinion, the fact that the figure has been exceeded is not a reason to refuse the application, but the impact of the development has to be taken into account. Plans and decisions should apply a presumption in favour of sustainable development.

Overall, it is considered that, in the absence of the necessary supply of housing land at this time, the conflict with the Council's housing strategy and the impact on the character and appearance of the countryside through the development of greenfield land, on its own, would not outweigh the proposal's benefits. In light of current guiding national and local policy and based upon the Council's position in terms of housing land supply, it is considered that in this instance the proposal is considered acceptable.

Yours sincerely

Wayne Campbell

CONSULTEE RESPONSES & RELEVANT POLICIES

CONSULTEES

In assessing this enquiry, the Council has undertaken to consult with relevant consultees, including:

Cherwell District Council

Ecology - No comments received

Conservation Officer - No comments received

Environmental Health – No objections

Oxfordshire County Council

Local Highway Authority: - No objections subject to the items outlined in the report

Policy: Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan in Cherwell comprises the Cherwell Local Plan 2011-2031 Part 1, and the saved policies of the Cherwell Local Plan 1996. The policies considered most relevant to your proposal are:

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
- BSC3: Affordable Housing
- 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
- INF1: Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- C31: Compatibility of proposals in residential areas
- ENV1: Environmental pollution
- ENV12: Potentially contaminated land
- TR1: Transportation funding
- R12: Provision of public open space in association with new residential development

OTHER MATERIAL CONSIDERATIONS

The National Planning Policy Framework (2019) is a material consideration which should be afforded significant weight. Other material considerations include:

- 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)

OTHER KEY CONSIDERATIONS

Flood Risk: The site is within Flood Zone 1 which is the zone of lowest flood risk. The Environment Agency has produced advice for applicants and agents about assessing flood risk in the planning process, and this can be viewed online at: <https://www.gov.uk/flood-risk-assessment-for-planning-applications>. You should have regard to this advice when preparing your application.

The Environment Agency also offers a pre-application service, details about which are available online at: <https://www.gov.uk/government/publications/planning-advice-environment-agency-standard-terms-and-conditions>

Drainage: You need to consider foul and surface water drainage when designing your proposals. In respect of foul drainage, you should first seek to connect to the public sewer network. You can contact Thames Water for further advice about this; information about their pre-application service is available online at:
<https://developers.thameswater.co.uk/commercial-building-works/water-supply/disconnections/pre-application-help-and-advice>.

Only if a connection to the public sewer network is not feasible should you then consider other foul drainage options. The Environment Agency would be consulted on any planning application that proposes non-mains foul drainage. If you are proposing non-mains foul drainage, you should submit a completed Foul Drainage Assessment Form with your planning application. This form can be viewed online at:
<https://www.gov.uk/government/publications/foul-drainage-assessment-form-fda1>

In respect of surface water drainage, wherever possible surface water should be drained within the site using Sustainable Drainage Systems (SuDS). Technical Standards for the design, maintenance and operation of SuDS can be viewed online at:
<https://www.gov.uk/government/publications/sustainable-drainage-systems-non-statutory-technical-standards>

In some cases the Water Authority may adopt SuDS which meet the legal definition of a sewer. Water UK has published [Design and Construction Guidance](#) which contains details of the water sector's approach to the adoption of SuDS. If you wish to explore the option of the Water Authority adopting SuDS, you will need to ensure the SuDS are designed in accordance with the Guidance.

In addition, you should refer to the guidance published on [Oxfordshire County Council's Flood Toolkit](#) concerning surface water drainage, and in particular the detailed guidance provided in the "Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire".

EIA Screening Opinion Required? NO

Committee or Delegated Matter?

As an application has been submitted for this proposal and a call-in made, the proposal will be considered at the Planning Committee.

Relevant Planning History:

There is no relevant planning history directly related to the site although as the proposal seeks access through the adjoining site the following is therefore of relevance:

18/01894/OUT - Outline planning permission with all matters reserved for up to 25 dwellings with associated open space, parking and sustainable drainage. Refused and approved on Appeal.

21/02893/REM - Approval of reserved matters pursuant to condition 1 of planning permission
18/01894/OUT for details of layout, appearance, scale, landscaping, access and parking for
25 dwellings. Pending decision

Notwithstanding the officer comments above, a Section 106 Legal Agreement will not be required for this proposal

You should also include in your submission the following additional plans/information:

- § Proposed materials – make, type, colour, etc
- § Proposed architectural detailing including 1:10 scale drawings including sections of windows and doors to include detail of reveal, colour materials; eaves and verge detailing; porch detailing; lintels and cills, rain water goods; meter boxes
- § Hard and soft landscaping proposals (to include hedge and shrub planting, sizes, species, positions, area of grass seeded/turfed; trees/hedges to be retained; TPOs)
- § Proposed boundary treatments
- § Proposed bin storage areas and bin collection points
- § Details of roof lights
- § Ecology assessment

The fee for your application will be £2,772.00

Date of Report: 30/03/2022

Case Officer: Wayne Campbell

APPENDIX 2
Committee Report

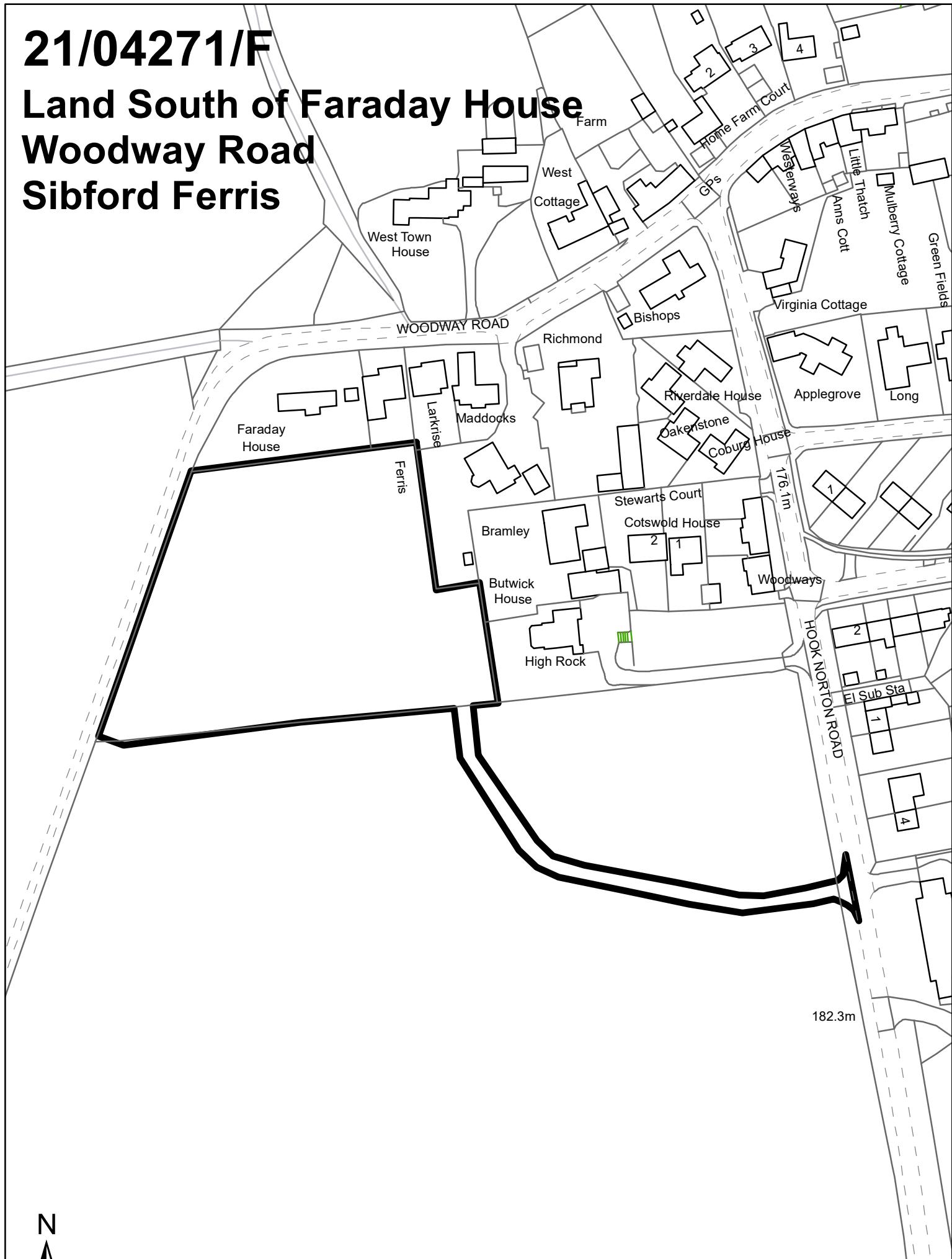
21/04271/F

Land South of Faraday House
Woodway Road
Sibford Ferris



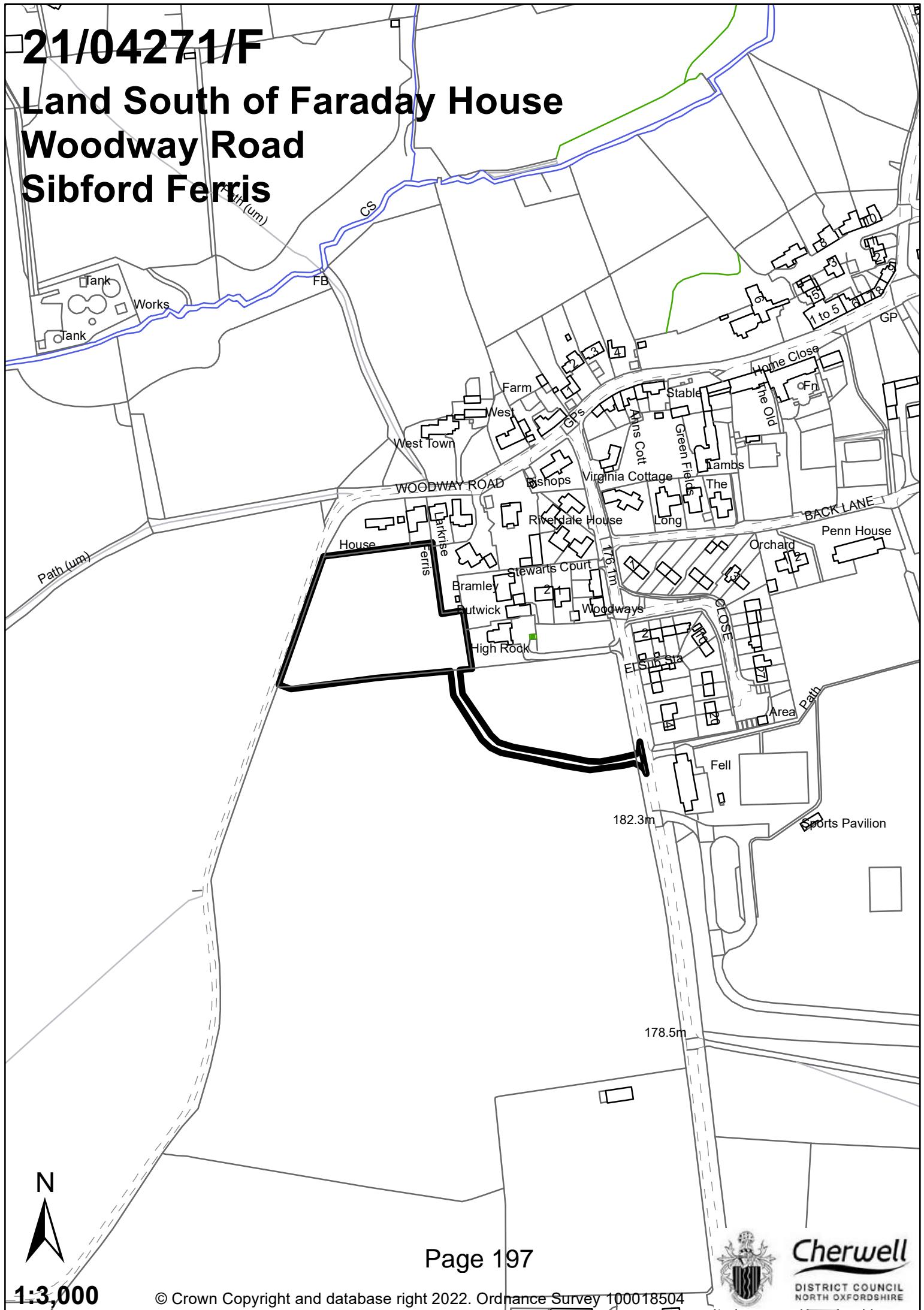
21/04271/F

Land South of Faraday House Woodway Road Sibford Ferris



21/04271/F

Land South of Faraday House Woodway Road Sibford Ferris



Case Officer: Wayne Campbell

Applicant: Blue Cedar Homes Limited

Proposal: Erection of 6no single storey age restricted dwellings (55 years) for older people with access, landscaping and associated infrastructure

Ward: Cropredy, Sibfords and Wroxton

Councillors: Cllr Chapman, Cllr Reynolds, and Cllr Webb

Reason for Called in by Councillor Chapman for the following reasons:

Referral: Public Interest – there are many objections from concerned residents requiring the topic to be discussed publicly.

Sustainability – The Sibfords including Burdrop are three small villages with very limited services. They are not well connected to each other. This application does not support CDC policies.

The Sibford Ferris infrastructure is stretched, including sewage already. This is prior to the adjacent 25 homes being built and putting more pressure on services. This new application will put even more pressure on the narrow and congested high street

Expiry Date: 11 March 2022

Committee Date: 7 April 2022

SUMMARY OF RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS

1. APPLICATION SITE AND LOCALITY

1.1. The application site is located on the western edge of Sibford Ferris village and covers an area of 0.94ha. The northern and eastern boundaries to the site are marked by existing residential properties while the southern edge of the site is marked by a hedgerow boundary beyond which is a further field which has outline planning permission for up to 25 dwellings approved at appeal under application 18/01844/OUT (and subject of a current Reserved Matters application). To the west the site is marked by Woodway Road and open fields.

1.2. The existing houses adjoining the site to the north and east are two-storeys in height while the boundaries between these dwellings are a mix of hedgerows and fences. Other than the hedgerow boundaries the site is an area of open agricultural land which currently has the appearance of a paddock, but from google maps the site has clearly been used for agricultural use with evidence of ploughing in the past.

2. CONSTRAINTS

2.1. The application site is located outside the built form of Sibford Ferris village but abuts the edge of the village. The site therefore has the appearance of an area of open countryside.

- 2.2. The Sibford Ferris Conservation Area boundary lies some 70 metres to the north of the site with existing residential properties on intervening land. The nearest listed buildings within the Conservation Area lie some 175 metres to the north-east of the site located on the main street through the village.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks planning permission for the development of the site for six detached bungalows. Access would be provided off a spur road to link into the approved residential development to the south of the site, and delivery of the proposed development is dependent upon the provision of the access road to the development to the south. Work on this site is unlikely to commence until this road serving the estate to the south is implemented.
- 3.2. The applicant has confirmed that the bungalows would be age restricted dwellings (55 years) for older people with access, landscaping and associated infrastructure. The bungalows would be controlled by an age restriction of 55 years and above for the occupiers.

4. RELEVANT PLANNING HISTORY

- 4.1. There is no planning history directly relevant to the proposal. However, as access to the site is to be obtained via the development to the south the history for this adjoining site is relevant.

18/01894/OUT - Outline planning permission with all matters reserved for up to 25 dwellings with associated open space, parking and sustainable drainage. Refused and approved on Appeal.

21/02893/REM - Approval of reserved matters pursuant to condition 1 of planning permission 18/01894/OUT for details of layout, appearance, scale, landscaping, access and parking for 25 dwellings. Pending decision.

5. PRE-APPLICATION DISCUSSIONS

- 5.1. The application was the subject of a pre-application enquiry. A meeting with the applicant and agent was carried out; however, the application was submitted before a response was provided though after the target date for the response. As such no written advice had 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 letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records along with formal consultees. The final date for comments was **31 January 2022**. There were 106 letters of objection, 1 letter of support and no comments received.

- 6.2. The comments raised by third parties are summarised as follows:

- Principle – Application conflicts with The Sibfords Community Plan.
- Attempts to build on this site over the years, they have all been refused as the site was deemed unsuitable.
- Development unnecessary, inappropriate and unsustainable contrary to Policy C28 of the Cherwell Local Plan 1996, Policy villages 2 and Policies ESD13 and

ESD15 of the Cherwell Local Plan 2011-2031 part 1 and the National Policy Framework and the National Design Guide.

- Need – No new permissions in rural areas needed as the Housing Delivery targets already exceeded, a total of 1062 dwellings have been identified to meet the Policy Villages 2 requirement for 750. The Annual Monitoring Review sets out Cherwell has a "Housing Land Supply from Deliverable Sites" for the 5 year period 2020 - 2025 and the other for the period 2021 - 2026 of respectively 4.8 and 4.7 years, marginally under the required 5 years.
- Sustainability – Council's own CRAITLUS report says development in the Sibfords is the least sustainable in the Cherwell district. The allowed appeal decision for 25 houses at Hook Norton Road in November 2019, overlooked the relative isolation, aged infrastructure, limited capacity, lack of facilities and poor accessibility of Sibford Ferris.
- Occupants of the proposed dwellings, being older, less mobile and less likely to walk or cycle, will be highly reliant on the use of private cars. Government advice on the location of housing for older people states that factors to consider include the proximity to good public transport, local amenities, health services and town centres. None of these apply in this instance.
- Nearest bus stop is 650m from the site entrance. On weekdays there are five buses to Banbury and Stratford, on Saturdays there are four and on Sundays there are no services and no services to Chipping Norton. Chartered Institution of Highways and Transportation guidance states maximum walking distances to bus stops is: "400 metres on single high frequency routes (every 12 minutes or better)." "300 metres on less frequent routes." The guidance disregarded by the applicant.
- Sibford Ferris, Sibford Gower and Burdrop wrongly classed as Category A Villages... leaves them vulnerable to speculative and unsustainable development. Class A categorization under review with communities and local MP and raised by Planning Inspector commenting on the appeal case of the Hook Norton Rd Development.
- The few public amenities in Sibford Gower and Burdrop, only accessed by narrow roads with poor, incomplete footpaths, limited lighting and congestion caused by parked cars. The villages are separated by a deep valley (Sib Brook) have poor accessibility for anyone, let alone older persons, without a car while the bus service has more than halved in recent years.
- Development beyond the confines of Sibford Ferris village and the residents of Sibford Ferris and Sibford Gower limited services means residents overly dependent Banbury, Stratford upon Avon and Chipping Norton. Sibford Ferris is not a suitable location for these age restricted dwellings.
- Infrastructure – No guarantee local infrastructure will cope with approved development for 25 new homes such as traffic, sewerage system at capacity, appointments at the local surgery, lack of public transport, lack of pavements, lack of Broadband, water pressure therefore further dwellings have a greater impact
- Transport impacts – Traffic implications with two lots of site traffic opposite the main entrance to Sibford Friends School and additional traffic will drive up CO₂ emissions and drive down air quality.
- The traffic assessment in support of the application is not a true reflection of the village infrastructure, where with only one small shop/post office that often does not have the most basic of items that you may need located in the centre of the village which is a distance of 900 metres away from the proposed site.

- Traffic assessment mentions there have been no reported accidents at the proposed location; again this is not a true reflection of the village.
- Implications – Proposal clearly a phase 2 style extension of the Hook Norton Rd site, with a phase 3 put forward as part of the Local Plan review leading to Developer Creep.
- Benefits – How does developer ensure homes will go to local people? Development will attract additional older people to the village, which already has a much higher proportion than the national average. Demand for affordable housing but this development is not going to contribute any to young families.
- Despite being described as for older people, the proposal is open market housing, fettered only by the not particularly demanding requirement for the occupiers to be 55 years of age. Whilst an ageing population has particular housing needs, 'retirement bungalows' in this location with a negative effect on the character and appearance of the area do not warrant any particular pre-eminence.
- Impact on landscape – Proposed development will adversely affect the local Landscape character of the village and the outlook over the ANOB with a beautiful landscape of farmland, natural flora and fauna further development will only erode the natural beauty of the area.
- Design – The proposal appears ill-conceived, incorporating large bungalows with variety of roof pitches, timber boarding and other uncharacteristic features is contrived, takes no design cues from the established historic character of its surroundings.
- Bungalows sited close together, have very small private amenity spaces, appear cramped and out of character with the quality of development in the village, which is designated as a Conservation Area.
- Gables on the north & east elevations would cause unnecessary restrictions to light and visual impact to the properties surrounding the development.
- Revised position of bin collection point would result in noise disturbance on collection day, lights from refuse lorry would shine directly into our property resulting in evasion of privacy.
- Revised plans place new road access, along with the swept path assessment, directly bordering our entire garden, which will affect our property with fumes, noise and after dark light pollution with vehicle lights from anyone driving along this access road shining directly into our property when this road is in use. Proposed access road means a complete loss of privacy, as well as a loss of wildlife that we often observe there from pheasant to deer and a loss in our ability to enjoy our hard worked for home and garden.
- Health – In an age of ever-increasing mental health issues, busy work lives, balancing the work/home life our outside space is at a premium for wellbeing, putting roads and properties on unsuitable green space areas decreases chances to connect with nature and have those peaceful safe spaces.
- The immediate and close presence of fields that grow rotational crops, can spark asthma, so a breathing compromised elderly person could react to that aspect of the environment,
- Council declared a Climate Change Emergency, but none of these environmental objectives will be achieved by repeating the same mistakes and approving more and more homes in attractive but inherently unsustainable villages like Sibford Ferris. This is a poorly conceived scheme on an unsuitable site in an unsustainable location and should be refused.

- Support the application as *it's good to have affordable housing for older people particularly in this area where Londoners can afford to outbid everyone*

6.3. Sibford Action Group:

- Conflict with the development plan, *Cherwell Annual Monitoring Report 2021 states that the 750 dwellings figure is likely to be exceeded by 312 dwellings, when allowing for non-implementation of some consents. This is with 9 years to go to the end of the Plan period. At close on 50% more than the 750 dwellings requirement, this proposal would add to a material exceedance of the policy figures and is therefore clearly unnecessary in terms of satisfying Policy Villages 2.*
- Accept that Council unable to demonstrate 5-year land supply and despite delivering 153% of its housing requirement between 2018 – 2021 that the ‘tilted balance’ under paragraph 11d of NPPF is engaged. Notwithstanding this the Action Group consider the adverse impact of the proposal would clearly outweigh any minor benefits.
- Unsustainable, poorly conceived scheme is an incursion into the beautiful open countryside surrounding the village and in an unsustainable location especially for older people. *Parish Council is seeking to amend the classification of the village because it is not a true or accurate reflection of the history, community, geography, topography and location of its sparse facilities.*
- The Sibfords’ Community Plan (2012) detailed that nearly 75% of respondents used the small village shop, but only for up to thirty percent of their shopping overall. Villagers still drive to nearby settlements for a supermarket, or any other shops and most services for the other 70% of their shopping needs. Proposal to be private car dependent with associated environmental harm so not suitably located and unsustainable for older persons.
- Government guidance on “Housing for older and disabled people” states: *‘The location of housing is a key consideration for older people who may be considering whether to move (including moving to more suitable forms of accommodation). Factors to consider include the proximity of sites to good public transport, local amenities, health services and town centres.’* None of these apply to the current application site and proposal.
- Harm to the landscape, as the site lies outside the built-up limits of the village in an attractive landscape that can be viewed from the Cotswolds Area of Outstanding Natural Beauty. *Sibford Ferris is one of the best examples of a village being absorbed within the landscape. Historically, dwellings have been subservient to the landscape, which is rolling, rural and influenced by the Sib Valley and the Ironstone Downs. However, regrettably new development is now threatening this.*
- Generating extra traffic on unsuitable roads as *occupants of the proposed dwellings, being older, less mobile and less likely to walk or cycle, they will be highly reliant on the use of private cars. This was accepted by the Inspector on the Hook Norton Road appeal. It is underlined by the double garages and two parking spaces for each bungalow included within the scheme. There is the added complication provided by proposed access through the Hook Norton Road site, which may not proceed concurrently with the present proposal at Woodway Road or could be exacerbated during the construction of either or both of the proposed developments together or sequentially.*
- Poor layout and design, contrary to the NPPF and National Design Guide, *design, incorporating large bungalows with a variety of low and other roof pitches, timber boarding and other uncharacteristic features is contrived and takes no design cues from the established and historic character of its*

surroundings, with the Sibford Ferris Conservation Area just a few metres away to the north of Faraday House. The bungalows are sited close together, have very small private amenity spaces and would appear cramped and out of character with their immediate surroundings.

- In assessing distances and times for walking and cycling to other facilities topography is an important factor and with the exception of the Shop/Post Office all the other facilities identified in application are located in Sibford Gower where the only link between the two villages is a narrow road through the Sib valley with steep gradients (around 20%) for several hundred metres in each direction. *As the Blue Cedar proposal is for age restricted dwellings for people over 55 the extent to which occupants will be willing to tackle such gradients is questionable and more likely there will be much higher usage of private cars than in the “typical” case.*
- In terms of highway safety the applicants report *fails to take proper account of the specifics of the location providing access from the site to Hook Norton Road and of the traffic movements connected with Sibford School.*
- Changes to the internal layout has *caused considerable loss of amenity to the existing residential properties adjoining the proposed development. For High Rocks, Butwick House and Bramley House a refuse collection site for the entire development is now proposed directly adjacent to their perimeter fences and back gardens. In the case of Faraday House an enlarged turning area now reaches to the perimeter of the development where it is the perimeter fence of their back garden with consequent fumes, noise and after dark light disturbance to the property.*
- *The Traffic Report by Pegasus is flawed as it considers the position as it exists today and not as it will exist when the Gade Homes development has been completed. This will be prior to the completion of the Blue Cedar development but access between the Hook Norton Road and the Blue Cedar development will be through the Gade development which will have itself already created a new junction with additional traffic at the junction.*
- *The Cherwell Rural Area Integrated Transport and Land Use Study (CRAITLUS) commissioned by Cherwell District Council and submitted in 2009 concluded that Sibford Ferris and Sibford Gower were two of only four villages in the rural area where road conditions and transport links rendered them unsuitable for further residential development.*

6.4. **Local MP.** A letter from the local MP Victoria Prentis has been received. The letter outlines that the MP has been contacted by a number of constituents regarding the cumulative impact of the development with the adjoining development allowed on appeal. It is stated that the site is grade 2 quality agricultural land and although recognise the need for sustainable homes concerned over the possible loss of such productive farmland when suitable brownfield sites are available and where the importance of a resilient domestic food supply has been highlighted over the past two years and where land of this quality is already in short supply. Several constituents have advised that the Council has already exceeded its target of 750 homes in the largest rural villages under the current local plan.

6.5. Constituents question whether Sibford Ferris, Sibford Gower and Burdrop should be considered as allocated as a category A village. MP considers it is clear that these villages are separate and not capable of sustaining a large amount of further development. Constituents highlight that access to small shop in Sibford Ferris and remaining amenities in Sibford Gower and Burdrop along narrow lanes with tight

bends, parked cars limited footpaths would present clear challenges for older residents from an age restricted development. Given the residents ability to walk or cycle together with the limited bus service it is clear that the future occupies of the bungalows will be largely reliant upon the use of cars. Constituents feel that this is at odds with vital need to promote sustainability in future housebuilding. MP highlights concern over current water and sewage infrastructure in the Sibford's being at capacity and that this application would push these systems to breaking point.

- 6.6. A legal opinion has been submitted by the Applicant in support of the planning merits of their proposals.
- 6.7. 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. SIBFORD GOWER PARISH COUNCIL: **Objects** on the grounds of although a Category A village in the appeal for the Hook Norton Road development the Inspector noted that *Given the spread of services across each settlement, it is unlikely that the Development of any site around the Sibfords would readily enable access by sustainable Transport modes.* Category A identification may be appropriate in planning terms but fails to reflect the actual nature of the community, geography, topography and location. Sibford Ferris only has a small shop, with the limited other public amenities available in Sibford Gower/Burdrop. The bus service has been reduced to half in recent years over-development; outside the village confines; adding to traffic problems in the area. Development contrary to the Sibford Community Plan 2012. Hook Norton development represent a 17% increase in households, additional 6 units increase this to 21%.

Concerned about sewage. No proven capacity adding further risk; Limited access to appointments and parking at the local surgery; Lack of public transport; Lack of pavements; Lack of Broadband; Poor Water Pressure; and Blocked drains are already a problem in the village.

CRAITLUS Report August 2009 states of 33 Villages Shenington, Sibford Ferris/Sibford Gower and Charlton-on-Otmoor perform poorly due to their location on minor roads with long travel times and distances to access key facilities.

Due to the wording of the current plan there is a level of ambiguity related to the development figure set for rural development. We understand that the plan talks about providing 750 dwellings in rural areas for the planning period 2011 to 2031 but this is not tightly worded and so open to interpretation as being: a ceiling, a goal, a minimum etc. Since 2014 1062 dwellings identified to meet the Policy Villages 2 and further permissions will exceedance of this target. 8293 permissions granted for homes, which haven't been built yet around Bicester, Banbury and Upper Heyford. Sibford Ferris has a housing density of 148 properties. Concern that the Sibfords potential "developer creep" into this site. Unreasonable for the small settlement of Sibford Ferris to absorb further speculative development.

Little evidence development would benefit Sibfords residents, likely to attract more older people to a location which already has a higher proportion of older people than

national average. The 55 years age restriction would appear to afford open market housing for potential residents.

Design unsympathetic to the established historic character of the village, much of which is designated as a Conservation Area. Location of development for older people is unsuitable and would produce an incongruous and cramped form of development, fails to respond to local character. Adverse impact on the local landscape, extending the village built-up footprint to Woodway Road, eroding the existing unspoilt, rural character.

The proposal is contrary to Policy C28 of the Cherwell Local Plan 1996, Policy villages 2 and Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 part 1 and Government guidance contained within the National Policy Framework and the National Design Guide.

Following receipt of amended plans SIBFORD GOWER PARISH COUNCIL raises the following objections:

- Development closer to Woodway Road results in less green space as larger areas are consumed by the access road. This affects the openness of this part of the village and brings the built development closer to the well-used PROW and national cycle route.
- Design still appears ill-conceived and overdeveloped. Bungalows are sited close together, have very small private amenity spaces and would appear cramped and out of character with their immediate surroundings and the quality of development in the village, which is designated as a Conservation Area. Contrary to paragraph 134 of the NPPF.
- Communal refuse now located at the rear of High Rock and we object to this on amenity grounds, as the refuse is too close to pre-established household of High Rock.
- Proposal is clearly not well-designed and now appears to have replaced timber with red brick which will make it appear to be a 1970's design and does not respond to existing local character and surrounding context.
- Despite being described as for older people, the proposal is for expensive market housing for occupiers of 55 years of age and above. This is not retirement age?
- Unclear from the revised site map how this impact on the drainage plan.
- Revised plans do not address the lack of sustainability and Infrastructure in the village
- Do not know how the infrastructure will cope with the Gade Homes development for 25 new homes on the adjacent site. Particular concerned about sewage and note that Condition 8 (Sewage) has not yet been discharged for the Gade Homes development. Have Severn Trent undertaken a comprehensive study to see if capital improvements are required and how and when will this will be done? Urge the case officer to recommend objection to this application until the safety of the Sib is proven.
- Occupants being older, less mobile and less likely to walk or cycle, will be highly reliant on the use of private cars and this is underlined by the double garages and two parking spaces for each bungalow
- Danger of extra traffic on unsuitable, narrow roads through the village,

- Unsafe Site Traffic as proposed access through the Gade Homes site. If the two site are developed at the same time, there will be double site traffic passing the main entrance to the Sibford School on the Hook Norton Rd,
- Revised plans do nothing to address cumulative effect of development in Sibford
- Application appears to be part of a long term three-phase development and the cumulative effect of all three developments on the village, need to be considered.

CONSULTEES

- 7.3. OCC HIGHWAYS: **No objection**. Following receipt of amended plans.
- 7.4. CDC STRATEGIC HOUSING: **No objection**. 6 units is below the threshold for affordable housing. There is a need in Cherwell for accommodation for older people and the proposed development will contribute to meeting this need. As there is no policy requirement for affordable housing, Strategic Housing have no further comments.
- 7.5. OCC ARCHAEOLOGY: **No objection**
- 7.6. SEVERN TRENT WATER: **No objection** subject to conditions
- 7.7. ENVIRONMENT AGENCY: **No comments** to make on the proposal
- 7.8. CDC CONSERVATION OFFICER: No comments received
- 7.9. CDC ECOLOGY: No response received
- 7.10. CDC PLANNING POLICY: No comments received
- 7.11. CDC ENVIRONMENTAL HEALTH: No comments received
- 7.12. WILDLIFE TRUST: No response received
- 7.13. OCC LEAD LOCAL FLOOD AUTHORITY: 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 ('CLP 2015') was formally adopted by Cherwell District Council in 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

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18: New dwellings in the countryside
- C5: Protection of ecological value and rural character of specified features of value in the district
- C8: Sporadic development in the open countryside
- 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

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Sibford Community Plan 2012
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)

9. APPRAISAL

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

- Principle of development
- Design, and impact on the character of the area
- Highway Implications
- Residential amenity
- Drainage
- Ecology impact
- Sustainable construction

Principle of Development

- 9.2. 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 Government's planning policy for England and how this should be applied.
- 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. Paragraph 10 of the NPPF 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*.
- 9.5. 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. 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*.
- 9.6. Section 5 of the NPPF covers the issue of delivering a sufficient supply of homes, and paragraph 60 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*.
- 9.7. Paragraph 73 highlights the need for Local Planning Authorities (LPAs) to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. 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

- 9.8. 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 this area comprises the adopted Cherwell Local Plan 2011-2031 ('CLP 2015') and the saved policies of the Cherwell Local Plan 1996.
- 9.9. Policy PSD 1 of the CLP 2015 states that *when considering development proposals, the Council will take a proactive approach to reflect the presumption in favour of sustainable development contained in the National Planning Policy Framework*. The policy continues by stating that *planning applications that accord with the policies in this Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise*. Paragraph B88 of the CLP 2015 also highlights that *by focusing development in and around the towns of Bicester and Banbury we aim to ensure that the housing growth which the District needs only takes place in the locations that are most sustainable and most capable of absorbing this new growth*.
- 9.10. Policy BSC4 of the CLP 2015, which covers the issue of providing housing mix on new development, states that *new residential development will be expected to provide a mix of homes to meet current and expected future requirements in the interests of meeting housing need and creating socially mixed and inclusive communities*. The policy continues by stating that *opportunities for the provision of extra care, specialist housing for older and/or disabled people and those with mental health needs and other supported housing for those with specific living needs will be encouraged in suitable locations close to services and facilities*. Although it is accepted that the applicant is not providing sheltered housing, the accommodation is aimed at those who are aged 55 and above. The advice in the National Planning Practice Guidance (NPPG) states that the definition of age-restricted general market housing is, *housing generally for people aged 55 and over and the active elderly. It may include some shared amenities such as communal gardens but does not include support or care services*.
- 9.11. Saved Policy H18 covers the issue over new dwellings in the countryside. Under this policy it is stated that *planning permission will only be granted for the construction of new dwellings beyond the built-up limits of settlements other than those identified under policy H1 when:*
- (i) *it is essential for agriculture or other existing undertakings, or*
 - (ii) *the proposal meets the criteria set out in policy H6; and*
 - (iii) *the proposal would not conflict with other policies in this plan.*

Under the current CLP 2015 Saved Policy H1 was replaced by Policy BSC1 while Saved Policy H6 was replaced with Policy Village 3 (Rural Exception Site).

- 9.12. 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.

- 9.13. Cherwell's position on five-year housing land supply is reported in the Council's 2021 Annual Monitoring Report (AMR). The 2021 AMR concludes that the District can demonstrate a 3.8 year supply for the current period 2021-2026 and a 3.5 year supply for the next five year period (2022-2027) commencing on 1 April 2022. The calculations also highlight that there is a shortfall of housing supply equal to 1,864 for the period 2021-2026 and 2,255 for the period 2022-2027. Although the current application is only for a small development of 6 bungalows, the proposal would make a contribution towards the provision of dwellings within the District.
- 9.14. Section E of the CLP 2015 concerns the monitoring and delivery of the Local Plan. Paragraph E.19 states that *if the supply of deliverable housing land drops to five years or below and where the Council is unable to rectify this within the next monitoring year there may be a need for the early release of sites identified within this strategy or the release of additional land. This will be informed by annual reviews of the Strategic Housing Land Availability*. In this instance the most recent published review undertaken by the Council is the Housing & Economic Land Availability Assessment (HELAA) (February 2018). This application site was reviewed in the HELAA under site reference HELAA267 under which the HELAA confirmed that this site had few physical constraints and limited potential impacts, and the site was considered suitable for a residential development of up to 20 dwellings.
- 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. Sibford Ferris is a Category A village.

Assessment

- 9.16. This application seeks planning permission for the development of an agricultural field for age restricted bungalows. The site is undeveloped, agricultural land that, given its physical and visual relationship to the existing built form, is outside of the existing built form of Sibford Ferris village but with existing residential properties to the north, east and approved residential development to the south. The site is bounded on the fourth side by Woodway Road then open countryside.
- 9.17. The site is not allocated for development in any adopted or emerging policy document forming part of the Development Plan.
- 9.18. Policy BSC1 of the CLP 2015 sets out the district wide housing distribution for the plan period 2011 to 2031 to enable the District to meet its housing needs in that time. The housing strategy of the Local Plan is to focus development at the towns of Banbury and Bicester and a small number of strategic sites outside of these towns, in particular RAF Heyford.
- 9.19. Being outside the limits of the village, the proposal conflicts with Policy Villages 1 and, being less than 10 dwellings, it does not find support from Policy Villages 2.
- 9.20. For development of less than 10 units, Policy BSC1 sets a "windfall" of 754 houses in the rest of the district outside Bicester and Banbury. The 2021 AMR shows that at 31/03/21 the level of Windfall Allowance (for <10 dwellings) stands at 770 completions with a further 217 for Planning Permissions at 31/3/21 and completions of 770.
- 9.21. The current position shows the level of windfall development in the rural area has passed the 754 set in Policy BSC1. The proposed development would increase the level of rural dwellings further. However, the figure is not a ceiling and, given the Council's housing land supply position (see below), exceeding the figure is not a

reason to warrant a refusal in this instance. As with all new development in considering the level of development the key issue is the impact of the development on the area and other material considerations around the development.

- 9.22. Saved Policy H18 of the CLP 1996 outlines criteria under which new development will be considered against. The proposed development would not provide essential agricultural housing and is not considered to represent a rural exception housing site providing an element of affordable housing. This weighs against the development of this site for the 6 bungalows.
- 9.23. The site is not previously developed land. The site is within an area of Grade 2 (possibly Grade 1 according to the Council's GIS mapping) agricultural land. This would weigh against the proposal.
- 9.24. The site to the south was granted permission at appeal. The Planning Inspector held that, *although the proposals would involve the loss of Grade 2 agricultural land, this has to be balanced against the benefits which the proposals could make to the provision of additional housing*. The appeal proposal was for a significantly larger number of dwellings on the site and hence a larger area of agricultural land lost to development than the current proposal.
- 9.25. It is considered that the conclusions of the Planning Inspector are a material consideration and that the benefit of the additional 6 bungalows has to weigh against any refusal on the grounds of lost agricultural land in this instance.
- 9.26. In addition, the applicant has advised that the site has been farmed on an agricultural tenancy by the adjacent owner of the land to the south. Access for agricultural operations has been conducted from his land to the south. Now that the southern land has been sold for development purposes the access is no longer available. The applicant states that farm tenant has no desire to farm it and has surrendered his tenancy. Furthermore, the landowner considers that, because of the size and shape of the site, the cost of travelling to it, and the size of modern equipment, it is no longer viable for farming.
- 9.27. Turning to the site's location relative to key services and facilities, Members will see that objectors to the scheme have raised the point that the village of Sibford Ferris along with all rural villages was subject to a review in the Cherwell Rural Areas Integrated Transport and Land Use Study Final Report ('CRAITLUS') 2009.
- 9.28. The purpose of the CRAITLUS was to identify the transport and land use impacts of potential new housing development in the rural areas. The outcome of this report assisted in the decisions regarding the location of new housing to 2026.
- 9.29. The objectors to the scheme highlight that under the CRAITLUS Sibford Ferris is outlined as being a less sustainable village being one of *four villages showing little capability to sustainably support additional housing Shenington, Sibford Ferris/Sibford Gower and Charlton-on-Otmoor have some facilities and public transport accessibility but are located on minor roads with long travel times and distances to access key services in major centres*.
- 9.30. Although Sibford Ferris performs poorly in the CRAITLUS, Members should also take into account the view expressed by the Planning Inspector in the appeal for the adjoining larger site to the south. The Inspector acknowledged *the CRAITLUS survey completed in 2009 and its conclusions on the use of private transport in the Sibfords but this matter was considered as part of the local plan which designated the village as a Category A village. Furthermore, although representations from SAG addressed concerns over the levels of congestion in the village caused by the amount of traffic*

passing through the narrow village roads, compounded by the ‘school run’ to the Sibford school I saw only limited examples of this during this critical time when I visited the village. Furthermore, during two visits to the village I observed that the amount of traffic on local roads was low. Although I acknowledge that bus services to the village have been reduced since the local plan’s adoption in 2015 I still consider that the inclusion of new housing could go some way to sustaining the existing level of service provision.

- 9.31. Notwithstanding the conclusions of the Inspector, Sibford Ferris is a Category A village as a ‘cluster’ with Sibford Gower and Burdrop, and across the three settlements there are a range of services that help residents meet their day to day needs. Taken together, these villages are somewhat more sustainable than some other Category A villages. That the Inspector considered the site to the south, a significantly larger development than the current proposal for 6 bungalows, to be sufficiently sustainable for residential development of this scale, is a material consideration in the assessment of the current application.
- 9.32. It is also noted that this site was reviewed in the HELAA under site reference HELAA 267, with the conclusion that the site had few physical constraints and limited potential impacts and was considered to be suitable for residential development of up to 20 dwellings. Paragraph E.19 of the Local Plan states, “If the supply of deliverable housing land drops to five years or below and where the Council is unable to rectify this within the next monitoring year there may be a need for the early release of sites identified within this strategy or the release of additional land. This will be informed by annual reviews of the Strategic Housing Land Availability”. Planning Inspectors have previously afforded the HELAA conclusions limited weight as they have not been through a planning application and associated consultation.
- 9.33. The development of the site would urbanise it and change its character, and given the proposal’s design would be unlikely to contribute in enhancing the built environment (NB. the key test in this regard is instead *whether it would cause harm*). However, the site is relatively small and visually contained. Given the site’s location, bounded on two sides by residential development and an approved development on a third, and the single storey scale of the proposed dwellings, it is considered that the proposal would not result in a significant adverse impact on the landscape for this edge of village development.
- 9.34. Access can be achieved through the future residential development to the south with a direct access onto the Hook Norton Road which has outline permission and currently with an application for the reserved matters being considered.
- 9.35. Overall, the proposal conflicts with Policy Villages 1 and Saved Policy H18. That said, 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 BSC1, Policy Villages 1 of CLP 2015, and saved Policy H18 of CLP 1996, and the weight to be afforded these policies is therefore reduced. The decision maker needs to apply the *presumption in favour of sustainable development*. 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.*

- 9.36. The NPPF places great importance on boosting the supply of homes and notes it is important that a sufficient amount and variety of land can come forward where it is needed. Paragraph 69 states 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*'. It is also clear that the development is aimed at providing accommodation for a specific group namely those aged 55 and above. The applicant has provided evidence that Cherwell follows, but substantially exceeds the national trend toward owner-occupation as the dominant tenure for older people. The applicant states that *around four out of every five older people in Cherwell are homeowners. The profile of the Cherwell in relation to the age of its population is currently very slightly below the national average but those 65 years of age will make up a quarter of the total population of the district by 2040. This will be a major factor in shaping future policy for housing, health and social care authorities. Between 2020 and 2040 the applicant states that there will be 9,500 more people in the District who are 85 years of age or more and this will present a major challenge for health and social care agencies.*
- 9.37. The applicant considers that due to the above points *in the absence of an adequate supply of appropriate, contemporary accommodation options pressures will increase on higher-end services, such as Registered Care Homes providing Personal Care and Registered Care Homes providing Nursing Care*. The applicant has highlighted that although the age specified is 55+ this is in line with the National Planning Practice Guidance definition of age-restricted general market housing *which is housing generally for people aged 55 and over and the active elderly. It may include some shared amenities such as communal gardens but does not include support or care services.*
- 9.38. Policy BSC4 of the CLP 2015 states that *opportunities for the provision of extra care, specialist housing for older and/or disabled people and those with mental health needs and other supported housing for those with specific living needs will be encouraged in suitable locations close to services and facilities*. The Oxfordshire Market Position Statement highlights that there is a general need for housing for elderly people across the county. The development would provide age restricted housing (which can be controlled by a condition) and this is considered to be a benefit of the scheme that will need to be weighed in the planning balance.
- 9.39. Notwithstanding, an age restriction of 55 and above should not be taken to suggest that the residents of the bungalows would be unable to walk and / or cycle to places in and around the village. As with any new resident to the village aged 55 or above they would not necessarily be of an age which prevents them from walking and / or cycling as suggested by a number of objectors to the proposal who possibly see the suggestion of retirement bungalows as being occupied by elderly or frail residents which is not necessarily the case.
- 9.40. Paragraph 79 of the NPPF seeks to *promote sustainable development in rural areas and advises that housing should be located where it will enhance or maintain the vitality of rural communities*. It states that *planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services*. Paragraph 80 continues by stating, amongst other things, that *planning policies and decisions should avoid the development of isolated homes in the countryside*. Within the CLP 2015, the classification of villages under Policy PV1 has been undertaken using criteria including: population size; range of services and facilities; and whether there were significant known issues in a village that could be materially assisted by an increase in housing (for example to maintain pupil numbers at a school). The classification of settlements under policy PV1 and the direction of growth to the category A villages under policy PV2 therefore meets the NPPF aspiration to ensure that the rural housing needed to maintain the vitality of rural

communities it located appropriately. With this proposal the development would provide another choice of accommodation within the village, and due to its location, the development would not be seen as an isolated development but as a natural extension to the western edge of the village.

Conclusion

- 9.41. Sibford Ferris village has very limited services, but together with Sibford Gower and Burdrop is a Category A village that a Planning Inspector concluded was sufficiently sustainable for a larger development on land immediately to the south of the site. The applicant has confirmed that the development of the site could be achieved within a five-year period and is available to develop. Although located outside the built form of the village the site is located adjoining the village boundary and is surrounded on three sides either by existing or approved residential development.
- 9.42. The site is not located within a flood zone and with no objections or comments being raised from the lead local flood authority, the Environment Agency nor Seven Trent Water it is considered that the development could be designed to ensure no adverse impact on the drainage. The site is classified as Grade 2 agricultural land which weighs against the proposal, although the site to the south is also Grade 2 agricultural land and was allowed at appeal for a larger development than that proposed here.
- 9.43. The proposal conflicts with Policy Villages 1 and Saved Policy H18. However, the Council's housing land supply position means that reduced weight is afforded to these Local Plan policies for the supply of housing. In light of the Council's housing land supply position and the allowed appeal to the south, it is considered that the principle of the development is acceptable, and that any refusal of this proposal on this basis would not be sustainable at appeal.

Design, and impact on the character of the area

- 9.44. Government guidance contained within the NPPF requiring good design states that *good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people*. Further, *permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions*.
- 9.45. Saved Policies C28 and C30 of the CLP 1996 exercise control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context. New housing development should be compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.
- 9.46. 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 ensuring a high-quality design.
- 9.47. Paragraph 130 of the NPPF states that planning decisions should ensure that developments:
 - *will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
 - *are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*

- are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change

- 9.48. This application seeks planning permission for the development of an agricultural field for 6no, age restricted bungalows. The site is undeveloped land outside of the existing built form of Sibford Ferris village but with existing residential properties to the north, east and approved residential development to the south and on which a reserved matters application is currently being considered. All three boundaries are marked by a mix of landscape features and the proposal would seek to retain and hence the landscape along these boundaries.
- 9.49. The site is currently an area of agricultural land with no built form and as such the proposal to build 6 bungalows would result in a significant change in the character of this part of the village. That said the proposed development is for single storey dwellings, and the existing landscaping along the edge of the site which forms the edge boundary to the village would be retained and would form an effective screen to the development helping to soften the appearance and impact from outside the site. The existing landscaping would be a more effective screen for the current proposal than it would for two-storey dwellings, which would be visible from footpaths to the north and west.
- 9.50. Turning to the design of the bungalows themselves, the dwellings would be purely single storey with no accommodation provided within the roof space. Although it is accepted that the majority of dwellings within the village are of a two-storey design there are numerous examples of bungalows within the village and therefore the development of the bungalows on the site would not be out of character for the village. Indeed, it would be an appropriate design solution for this visually sensitive edge of village location.
- 9.51. In terms of layout the proposal is for a single access road feeding off the access road to serve the new residential development to the south of the site. Once within the site the access road would split into two private driveways one serving the north of the site and a second separate driveway to the south. The 6 bungalows would all front onto one of the private driveways in an arc form with the rear elevations all facing towards a central communal rear garden space.
- 9.52. Although the main area to the rear of the bungalows would be the communal landscape garden each bungalow would also maintain a small private rear garden area with privacy fencing between the plots.
- 9.53. Objectors to the application have raised the concern that the layout appears cramped and an over development of the site. Although it is accepted that on the initial layout the arrangement of the bungalows did have the appearance of a cramped form the applicant has addressed this point by moving the southern plots towards the western boundary thereby freeing up space between the plots. This moves the plots to the south closer to the western edge of the application site and would reduce the area of landscape buffer but not to a point which would result in the development appearing over dominant to warrant the refusal of the application. Furthermore, in order that no further extension of the bungalows or building within their curtilage is carried out under permitted development that could impact on the amenities of surrounding residents, members will see from the recommendation that two conditions are included that would remove the permitted development rights. These conditions would ensure that in the event that any further works are required that an application is submitted to allow for an assessment of the proposal before any works are carried out.

- 9.54. With regards to the materials to be used on the bungalows, the initial proposal was for the use of reconstituted stone, timber boarding and slate roof tiles. The use of reconstituted stone is not a material which would be acceptable in the village and that natural stone would be the only type of stone acceptable in this location. As a substitute to stone it is accepted that this part of the village also features several dwellings faced in brick and plain tiles. The applicant has instead suggested the use of a buff brick, but this too would not be in keeping with the surrounding area. Timber cladding is also shown on the submitted plans but is not a feature of residential dwellings in the area and for the same reasons as recon stone would not be appropriate. It is considered that the use of a good quality red brick and natural slate, both of which are also shown on the submitted materials plan, would be acceptable, and the use of appropriate materials can reasonably be required by condition of any permission given.
- 9.55. Concern has been raised by some objectors that the development of this site would impact upon the character of the village and in particular reference to the impact on the Conservation Area has been raised. Although the development is located close to the Conservation Area officers note that the site is not located within nor abuts the edge of the Conservation Area. The site is closest to the Conservation Area to the north of the site, but the existing dwelling of Faraday House is located between the site and the Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
- 9.56. In this instance it is considered that as the development is not located within nor abutting the Conservation Area the proposal would not result in any adverse impact upon the character of the Sibford Conservation Area.
- 9.57. Overall, subject to the use of appropriate materials, the proposal for 6 bungalows on this site is considered to represent an acceptable form of development in terms of design and appearance. The retention and enhancement of the landscaping boundary to the site would ensure that the appearance of the development would be softened and would not appear out of place nor overbearing development on the edge of the village.
- 9.58. The layout of the development in the form of an arc around a central communal garden space is considered acceptable and with the additional landscape garden area will ensure that the setting of the development appears as a landscape led development. The applicant has increased the space between the plots to allow a layout which does not appear cramped. For these reasons it is considered that in terms of design and appearance the proposal represents an acceptable form of development and complies with the adopted policies.

Highway Implications

- 9.59. Paragraph 110 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 111 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.*

- 9.60. This application seeks to provide a link to Hook Norton Road via the new access road provided through the approved new estate to the immediate south of the site. Once within the site the access road would divide in two to provide two separate private drives one serving the north and the second serving the south of the site. Initial concerns raised by the local highway authority on the acceptability of the access arrangements have been addressed by the applicant in the form of an amended plan. This amended plan now shows that both the north and the south of the site can be accessed by a fire tender and that a refuse vehicle can access the southern section of the site where the bin storage area will be located. The revised plan shows a tracking for a refuse vehicle accessing the site to the south and sufficient space to allow the refuse vehicle to turn within the site and leave within forward gear.
- 9.61. Concern has been raised by a number of objectors that the revised layout has resulted in harm to the amenities of adjoining residents. These concerns include position of bin store close to boundary and access road leading to light pollution and noise.
- 9.62. The applicant has confirmed that the scheme would be managed by Blue Cedar Homes and refuse will be transferred to the bin store near the turning head in the south on the eastern side of the carriageway adjacent to Plot 4 on bin collection day. This is similar to arrangements at other Blue Cedar Homes schemes in Oxfordshire that are recently approved and occupied, and at other sites throughout the Country. With regards to light pollution and noise, although it is accepted that the development would lead to an increase in light and potential on some neighbouring dwellings the level of harm is not considered to a point which would warrant a refusal in this instance.
- 9.63. Officers consider that the amended proposal would not result in any highway safety issues and that there is no highway reason to warrant a refusal of permission.

Residential amenity

- 9.64. 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'.
- 9.65. This application seeks planning permission for the development of the site with 6 detached bungalows. The site shares a common boundary with existing residential properties to the north and the east the boundaries of which are marked by a mix of open style fences and existing landscaping. As the layout of the development is for the bungalows to face towards the shared boundaries there is the potential that the development would result in a loss of privacy to the existing residential properties. However, the distance between the front of the nearest bungalow and the shared boundary is in the region of 14m with a further 20m before the rear elevation of the existing property. This distance together with the fact that the proposal is for a bungalow would ensure that an adequate distance would be maintained to ensure

that the development will not result in any significant loss of privacy or outlook or light pollution.

- 9.66. Given the above, it is considered that the development is acceptable in residential amenity terms, both for existing residents neighbouring the site and future occupiers. The development therefore complies with the adopted Policies.

Drainage

- 9.67. 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.*

- 9.68. 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.*

- 9.69. 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.

- 9.70. 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.

- 9.71. 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. The applicant has submitted a Foul and Surface Water Drainage Strategy in support of the application. This strategy outlines that in accordance with the Sustainable Drainage Systems (SuDS) hierarchy, rainfall run-off should be managed in the following preferential order:

- 1. Infiltrated to ground.
- 2. Discharged to local watercourse.

3. Discharged to a local surface water sewer network.
4. Discharged to a local combined water sewer network

The Strategy continues by stating that given the advice contained within the geotechnical report, runoff from the individual plots would be collected via a positive piped system and conveyed to a communal soakaway feature in the proposed open space area to the west. This would ensure that concentrated volumes of water will be at an appropriate distance from buildings. Areas of hardstanding would be formed using a permeable surface and will cater only for rainfall falling directly upon that area, no additional inflows would be included. In this way the surface would mimic the existing rainfall action. The access road and driveway areas would be split into self-contained 'cells' in order to ensure that runoff does not migrate across the site, keeping individual catchment areas relatively small. Where areas of significant hardstandings are immediately adjacent to a building, the area of permeable paving will be set away from the edge of the structure.

- 9.72. In considering the details of the drainage strategy no comments have been received from the LLFA and the Environment Agency confirmed that there are no comments raised on this application. Seven Trent Water provide the foul drainage in the area and in considering this application Seven Trent have confirmed that *foul water is proposed to connect into the public foul water sewer, which will be subject to a formal section 106 sewer connection approval. As a pumped solution is being proposed for foul water discharge from this site, a sewer modelling study may be required to determine the impact this development will have on the existing system and if flows can be accommodated. Severn Trent may need to undertake a more comprehensive study of the catchment to determine if capital improvements are required. If Severn Trent needs to undertake capital improvements, a reasonable amount of time will need to be determined to allow these works to be completed before any additional flows are connected.*
- 9.73. Members will note that a condition is attached to the recommendation to approve this application requiring details of foul and surface drainage details to be submitted to and approved prior to the comment of any development. As highlighted in the comments of Seven Trent Water, the applicant will need to discuss the details of the final drainage connection with Seven Trent and reach an agreement on what if any changes to the infrastructure are required, to allow the development to connect to the current system. There is no objection raised to the proposal by Seven Trent Water. Furthermore, in considering the development on the adjoining site for a larger development the Planning Inspector in allowing the appeal confirmed that the *site lies in the Flood Zone 1 and a Flood Risk Assessment submitted with the appeal identified that the risk of flooding was low. Furthermore, the scheme does include sustainable urban drainage*. Based on this and the no objections raised to the application by the LLFAS, Environment Agency and Seven Trent it is considered that subject to the necessary infrastructure being in place there is no drainage reason to warrant a refusal in this instance.

Ecology impact

Legislative context

- 9.74. 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.

- 9.60. 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. 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.
- 9.61. 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.

- 9.62. 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

- 9.63. 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.
- 9.64. 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.

- 9.65 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.
- 9.66 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.
- 9.67 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

- 9.68 The application is supported by a detailed ecology assessment of the application site. The report highlights that an ecological survey and appraisal of the site and proposed development was undertaken on the 23rd September 2021. The survey was also supported with a desk-based review of maps, satellite imagery, and information supplied by the Thames Valley Environmental Records Centre.
- 9.69 The report outlines that the proposed development site is not covered by any statutory or non-statutory nature conservation designations, and there are no potentially affected designated sites in the local landscape. It is highlighted that the boundary hedgerow used by common bats and two oak trees, which have low potential to support roosting bats, will be protected. The report considers that habitat affected by the development is of negligible value for foraging bats. It is possible that common mammals move through the study area. But that the site is not suitable for supporting ground nesting birds, and the vast majority of boundary hedgerow that could support low numbers of nesting common birds will be retained and protected. The site is not considered to support reptiles or great crested newt.
- 9.70 The submitted ecology assessment considers that mitigation measures to include protection of bats, mammals and nesting birds would be included as part of the development. The mitigation includes the design can include new mixed native hedgerow, trees and species-rich grassland, while five bat roosting boxes and twelve swift nesting boxes would be installed on new buildings. The proposed development complies with both national and local planning policies to maintain and enhance biodiversity, in particular those habitats and species identified as priorities in the UK and Oxfordshire, and the scheme provides a net biodiversity gain. The residual ecological effect of the proposed development is considered to be positive in a Local context.

Conclusion

- 9.71 Officers are satisfied, on the basis of the absence of any objection from Natural England or the Council's Ecology Officer, and subject to conditions, 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, have been met and discharged.

Sustainable construction

- 9.72. 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.*
- 9.73. Policy ESD1 of the CLP 2015 covers the issue of Mitigating and Adapting to Climate Change and includes 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).*
- 9.74. Policy ESD 2 relates to 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.
- 9.75. 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.

- 9.76 This application seeks planning permission for the development of this site for 6 detached bungalows. The applicant has provided a sustainability statement which confirms that the proposed development will incorporate many sustainability initiatives which seek to not only comply with the 3 sustainability objectives in the NPPF as well as CLP Policy ESD3. The key features include: the use of air source heat pumps which will be used due to the lack of mains gas in the area. All dwellings are designed to reduce air leakage which assist with the use of the air heat pumps. All dwellings will be provided with electric car charging and additional bicycle storage will be provided for each dwelling. All the dwellings are design to M4(2) provision for future adaptability. PV cells would be provided to the roofs of the dwellings. The scheme would include a SuDS drainage to mimic natural drainage. The development includes the provision of a communal landscaped gardens which together with the landscape buffer along the western edge of the site would encourage biodiversity. Finally, it is confirmed that the dwellings would be installation with appliances, fixtures and fittings to reduce the use of water to 110litres/person/day as required by Policy ESD3.
- 9.78. Based on the above measures it is considered that the development would be completed to assist in the reduction of impact on the environment as required under Policy ESD3.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. 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. 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. Sibford Ferris is a Category A village under the 2015 Local Plan. It has limited services, public transport links and employment opportunities. It is accepted that the future residents of the development would have no choice but to use their own private cars to serve their needs. However, a Planning Inspector considered the village sufficiently sustainable to accommodate 25 dwellings on the site immediately to the south of the application site.
- 10.3. Under Policy BSC1 developments of less than 10 dwellings are considered as 'windfall' developments and the CLP allocates 754 dwellings under this category as an aspiration. The AMR 2021 highlights that the delivery of developments under 'windfall' developments over the plan period is now at a position where the total number of housing completions and the number of dwellings permitted at sites where development has commenced has exceeded 754 dwellings at 771. The position of housing delivery in the rural area is therefore considered to be healthy in respect of the vision of the Development Plan and so the proposal does not find support from Policy BSC1.

- 10.4. The site is an open field not allocated for development in the Development Plan. The Being outside of the built limits of the village the proposal conflicts with Policy Villages 1 of the CLP 2015 and Saved Policy H18 of the CLP 1996.
- 10.5. However, the Council is not presently able to demonstrate a five year supply of deliverable housing sites and so the relevant development plan policies for housing are to be considered 'out of date' and are afforded reduced weight.
- 10.6. In the circumstances where the housing supply policies are to be considered out of date, the presumption in favour of sustainable development must be applied, which means granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 10.7. 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.
- 10.8. Due to the position of the site and spatial relationship to its surroundings, the proposed development would not project development out into the area of open countryside like previous appeal sites in the village and, given the single storey dwellings proposed, would not adversely affect the character or appearance of the landscape. The proposal is also considered acceptable in heritage terms.
- 10.9. Significant weight is attached to the proposal's conflict with the Council's housing strategy. If the Council had been able to demonstrate a 5 year housing land supply this policy conflict would have carried greater weight. Significant weight is attached to the effect of the proposal on the character and appearance of the countryside through the development of greenfield land (as did the Inspectors in dismissing appeals on the adjoining site). Substantial weight is given to the benefits of additional housing and the proposal's contribution to the Council's housing land supply and in particular the age restriction which will extend the variety of housing choice within this area and the District.
- 10.10. Overall, it is considered that in the absence of the necessary supply of housing land at this time that the conflict with the Council's housing strategy and the impact on the character and appearance of the countryside through the development of greenfield land, on its own, would not outweigh the proposal's benefits. Given the above assessment and in light of current guiding national and local policy set out in the report, it is recommended that planning permission be granted in this instance.

11. RECOMMENDATION

RECOMMENDATION – GRANT PERMISSION SUBJECT TO THE CONDITIONS SET OUT BELOW

CONDITIONS

Time Limit

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Compliance

2. The development shall not be carried out otherwise than in complete accordance with the approved plans [Site Location Plan (4192 3 002 Rev D); Site Plan (4192 3 049 Rev B); Plot 1 and 2 Floor Plans (4192 3 200 Rev B); Plot 3 Floor Plans (4192 3 203 Rev C); Plot 4 and 5 Floor Plans (4192 3 205 Rev C); Plot 6 Floor Plans (4192 3 208 Rev C); Plot 7 Floor Plans (4192 3 210 Rev D); Plot 1 and 2 Elevations (4192 3 220 Rev A); Plot 3 Elevations (4192 3 221 Rev A); Plot 4 and 5 Elevations (4192 3 222 Rev A); Plot 6 Elevations (4192 3 223 Rev A); Plot 7 Elevations (4192 3 224 Rev C); Materials Plan (4192 3 052 Rev B); Conservation Enhancement Plan (4192 3 051 Rev C); Entrance wall and planter (4192 3 300 Rev A); Proposed hard surfaces (4192 3 053 Rev C); Site Access and Highway works (P19-1601 Figure 2 Rev D); Refuse and Recycling Plan (4192 3 057); Cycle Storage Plan (4192 3 056) and Drainage and Flood Risk Assessment prepared by Hydrock dated 26 November 2020 unless a non-material or minor material amendment is approved by the Local Planning Authority under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

Reason: To clarify the permission and for the avoidance of doubt.

3. Notwithstanding the details submitted, no dwelling shall be occupied until details of the proposed parking turning, loading, and unloading provision for vehicles to be accommodated within the site including details of the proposed surfacing and drainage of the provision, has been submitted to and approved in writing by the Local Planning Authority. The approved parking turning, loading, and unloading facilities shall be laid out and completed in accordance with the approved details before the first occupation of the dwellings. The car parking turning, loading, and unloading spaces shall be retained for the parking turning, loading, and unloading of vehicles at all times thereafter.

Reason: In the interests of highway safety, to ensure the provision of adequate off-streetcar parking turning, loading, and unloading and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework

4. No development shall take place including any works of demolition until a Construction Environment and Traffic Management Plan 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 routeing 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. details of the measures to be taken to ensure construction works do not adversely affect residential properties on, adjacent to or surrounding the site,

together with the details of the consultation and communication to be carried out with local residents shall be submitted to and approved in writing by the Local Planning Authority.

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.

5. 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.

6. Prior to the occupation of each individual dwelling, the dwelling shall be provided with solar PV in accordance with a scheme which shall firstly be submitted to and approved in writing by the Local Planning Authority.

Reason: To support the delivery of renewable and low carbon energy in accordance with Government guidance contained within the National Planning Policy Framework.

7. Prior to the first occupation of the development hereby permitted, written confirmation that the development achieves a water efficiency limit of 110 litres/person/day under Part G of the Building Regulations shall be submitted to and approved in writing by the Local Planning Authority.

Reason: Cherwell District is in an area of water stress, to mitigate the impacts of climate change and in the interests of sustainability, to comply with Policies ESD1 and ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework.

8. A schedule of materials and finishes to be used in the external walls and roofs of the dwellings shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The development shall thereafter be completed in accordance with the approved details.

Reason: To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development in accordance 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.

9. A scheme for landscaping the site shall be provided to and approved in writing by the Local Planning Authority which shall include:-
 - (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas and written specifications (including cultivation and other operations associated with plant and grass establishment i.e. depth of topsoil, mulch etc),
 - (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
 - (c) details of the hard landscaping including hard surface areas, pavements, pedestrian areas and steps.

Such details shall be provided prior to the development progressing above slab level or such alternative time frame as agreed in writing by the developer and the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details and the hard landscape elements shall be carried out prior to the first occupation of the development and shall be retained as such thereafter.

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.

10. 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 and shall be maintained for a period of not less than 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.

11. The existing hedge along the western boundary of the site shall be retained at a minimum height of not less than two metres and any trees or plants which die, are removed or become seriously damaged or diseased within 5 years from the completion of the development shall be replaced in the next planting season with others of similar size and the same species, unless the Local Planning Authority gives written consent to any variation.

Reason: To provide an effective and attractive screen for the development 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.

12. Before any above ground works commence a scheme for the provision and implementation of foul and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be constructed and completed in accordance with the approved scheme before the first occupation of any of the dwellings hereby approved.

Reason: To ensure satisfactory drainage of the site in the interests of achieving sustainable development, public health, to avoid flooding of adjacent land and property 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. 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.

14. Full details of the enclosures along all boundaries and within the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of those works. Such approved means of enclosure, in respect of those dwellings which are intended to be screened, shall be erected prior to the first occupation of those dwellings.

Reason: To ensure the satisfactory appearance of the completed development, to safeguard the privacy of the occupants of the existing and proposed dwellings and to comply with Policy 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.

15. Notwithstanding the provisions of Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending that order) no building or structure other than oil or LPG storage tanks shall be erected or placed within the curtilage of the dwellings hereby permitted without the grant of further specific planning permission from the Local Planning Authority.

Reason: Having regard to the density, character and layout of the development the Local Planning Authority consider such structures would be likely to adversely affect the amenity of neighbouring occupiers and the character of the area and consider it is in the public interest to require an application to enable the merits of any proposal to be assessed in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996.

16. Notwithstanding the provisions of Classes A, B, C and E of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 and its subsequent amendments, the dwellings shall not be further extended, nor shall any further structures be erected within the curtilage of the dwellings, without the grant of further specific planning permission from the Local Planning Authority.

Reason: Having regard to the density, character and layout of the development the Local Planning Authority consider such structures would be likely to adversely affect the amenity of neighbouring occupiers and the character of the area and consider it is in the public interest to require an application to enable the merits of any proposal to be assessed in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996.

17. The 6 dwellings hereby permitted shall only be occupied by persons (a) aged 55 or over, and/or (b) living as part of a single household with such a person or persons; and/or (c) who were living as part of a single household with such a person or persons at the property who have since died.

Reason – To ensure that the development is used by elderly people only, to ensure compliance with the description of development and in accordance with Government guidance contained within the National Planning Policy Framework.

APPENDIX 3
Counsel's Opinion and Briefing Note to Members

LAND TO THE EAST OF WOODWAY ROAD, SIBFORD FERRIS, OXFORDSHIRE

OPINION

Introduction

1. I am asked to advise Blue Cedar Homes in relation to a detailed planning application that has been made¹ ('the application') for the erection of 6 residential retirement properties for people over 55 years old on Land east of Woodway Road, Sibford Ferris, Oxfordshire.
2. In essence the application seeks to deliver a bespoke residential retirement scheme which will meet an acknowledged and identified need for these type of properties both locally and in Sibford Ferris.
3. I have considered the application and the range of expert reports submitted with it² and various consultee responses. I am asked to consider the planning policy context in light of such evidence and in light of the legal tests engaged relevant to the grant of planning permission. I have also considered various objections that have been made to the application including one from Victoria Prentis MP.

Site and Planning Policy Context

¹ 21/04271/F

² Detailed analysis of the proposals have been undertaken in terms of landscaping, biodiversity, archaeology, transport, drainage.

4. Sibford Ferris is a village located in north west Oxfordshire. The site relates to a parcel of land on the southern edge of the village. It comprises the northern part of a field in arable use measuring 0.94ha and surrounded by hedgerows.
5. To the north and east of the site lies residential development of medium/low density one and two storey housing. To the south is a site which has had residential development (25 dwellings) allowed on appeal in December 2019³ and to the west the site is bound by Woodway Road.
6. The adopted Cherwell Local Plan 2011-2031⁴ defines Sibford Ferris grouped with adjacent village Sibford Gower as a Category A Service Village (see especially PV1 and PV2).
7. PV1 provides a framework for housing development in rural areas in development plan terms and groups villages into separate categories (A, B and C). Category A Service Villages represent some of the most sustainable villages in the district. Such a categorisation was evidence based, informed by a range of sustainability criteria⁵ and applied an established methodology as the plan makes clear⁶. In any event it would not

³ APP/C3105/W/19/3229631. I return to that decision below

⁴ Policy Villages I ('PV1'). Relevant parts of the development plan include the 'saved' policies of the Cherwell Local Plan 2011- 2031 (Part 1) – re-adopted 2016 and the 'saved' policies of the Adopted Cherwell Local Plan – 1996.

⁵ See CLP at C.255. Categorisation of villages for the Local Plan was based upon the findings of the Cherwell Rural Areas Integrated Transport and Land Use Study (2009). The 2009 study records Sibford Ferris/Sibford Gower as benefitting from a range of facilities including community facilities, nursery, public house, post offices, primary school, restaurant facilities and retail. Survey work previously undertaken to inform village categorisation and was supplemented by 'the Cherwell Rural Areas Integrated Transport & Land Use Study' (CRAITLUS) which was produced in association with Oxfordshire County Council. The survey work was updated in 2014.

⁶ "C.257 *The principle of categorising villages is well established within the District, with this approach being taken in both the Cherwell Local Plan 1996 and the Non-Statutory Cherwell Local Plan in 2004. It is considered that this approach is still appropriate*"

be appropriate when determining a planning application to seek to recategorize Sibford Ferris⁷. The development plan policy is quite clear.

8. Moreover my instructions and the evidence I have seen indicate that the village has seen very little recent development to continue to support the existing local facilities. The Sibfords⁸ are evidently one of the most sustainable rural settlements in the District with a range of services and facilities within walking distance of the proposed development site.
9. In my opinion the application would be in general accordance with policies PV1 & PV2. In particular I am of the clear view that the 750 figure referred to in PV2 is not to be construed or applied as a ceiling or target by a decision maker. In that regard I would make the following points:

- (i) As has been made clear on appeal⁹, the 750 figure is not a ceiling.
- (ii) Even in a situation where the 750 figure might have been nearly attained¹⁰ (or even met) in the context of BSC1 and the need to meet overall housing requirements by 2031 (which I address below) it would not provide a basis for a moratorium on future development. Quite the contrary, particularly as there is an extant housing shortfall in the District and a local need for this type of housing.

⁷ That would be a matter for a review or new local plan

⁸ Ie including Sibford Gower and Burdrop

⁹ See for example APP/C3105/W/19/3229631 at paragraph 13

¹⁰ I understand from a recent report in relation to land to the west of Chinalls Close -21/03066/OUT that 749 dwellings are either completed or under construction on sites with planning permission – see para 9.23 of the officer report

(iii) The application proposal would not undermine the thrust of PV2. Indeed in light of the documentation and the compliance with the PV2 criteria I consider it would support it.

(iv) Even if, contrary to my view, it were considered that there was a conflict with aspects of PV2 in terms of the plan housing strategy the lack of a 5 year supply in the district would render it out of date so that reduced weight could be given to any perceived conflict in a decision making context.

10. The development plan context is, in essence, in accordance with the latest up to date national policy which supports principles of sustainable development in a way that is also found in, for example, policy PSD1. That policy embeds a proactive approach to considering proposals to reflect the presumption in favour of sustainable development in national planning policy. Development as is here proposed would support balanced and sustainable growth.

11. Further, I am instructed that Cherwell District Council are currently unable to demonstrate a 5 year housing supply¹¹. To that extent the local plan is currently failing to deliver district wide needs. Policies which *might* be construed as limiting housing growth would be '*out of date*' in national policy terms¹². This means that paragraph 11

¹¹ The housing land supply is currently calculated at about 3.8 years according to the recent report relating to land to the west of Chinalls Close -21/03066/OUT (see report at 9.15) – a figure derived from the 2021 AMR. This compares to a 4.7 year supply in the 2020 AMR. The shortfall in Cherwell is significant. See policies BSC1 on requirement and E.10 for monitoring requirements. As I understand it an additional 1.864 homes would need to be shown to be deliverable in the period 2021-2026 to achieve a NPPF compliant 5 year supply.

¹² In policy housing policies would be '*out of date*' because of a lack of 5 years supply. The weight to be afforded to such policy is a matter of planning judgment viewed in context.

(d) of the NPPF is engaged¹³ as a material planning consideration so that planning permission should be granted unless 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.

12. National policy stresses the imperative of significantly boosting the supply of homes and requires that the needs of specific groups are addressed¹⁴ - which includes the needs of '*older people*'¹⁵. I am instructed that there is an accepted need for retirement properties in the area and this application will assist in meeting such a need and accord with national policy. The evidence I have seen indicates that there is such a recognised and accepted need for elderly persons accommodation in Sibford Ferris which is not being met by any existing or proposed residential development. Thus the consultation response from Strategic Housing¹⁶ is clear that : "*There is a need in Cherwell for accommodation for older people and the proposed development will contribute to meeting this need*". This development would in that context provide much needed adaptable living accommodation specifically designed for the elderly.

13. Such provision will also accord with policies BSC4 and BSC1 and the sustainable location of the application site will accord with the aims of policy BSC2. The proposal

¹³ Subject to para 11 (d) (i) which I do not consider bites

¹⁴ Paragraphs 60 & 62 NPPF

¹⁵ See also National Planning Policy Guidance (NPPG) relating specifically to Housing for Older and Disabled People. Paragraph 001, which was revised in June 2019, explains that: - "*The need to provide housing for older people is critical. People are living longer lives and the proportion of older people in the population is increasing. In mid-2016 there were 1.6 million people aged 85 and over; by mid-2041 this is projected to double to 3.2 million. Offering older people a better choice of accommodation to suit their changing needs can help them live independently for longer, feel more connected to their communities and help reduce costs to the social care and health systems.*"

¹⁶ 8.2.22

would add to the mix and tenure of dwellings in the locality. The evidence I have seen clearly supports this position¹⁷.

14. There is a clear recognition underpinning PV2 of a need to deliver housing growth evenly across the District and PV2 identifies a range of criteria to guide development in Category A villages.

15. In general terms my view is that the application can readily be delivered in a way which accords with the PV2 criteria and also with policies ESD3 (sustainable construction), ESD 10¹⁸ (protection and enhancement of Biodiversity), ESC13 (landscape)¹⁹ and which will provide a high quality, well designed development (H18, C28, C30, C33 of the saved 1996 plan would be complied with).

16. It will also accord with national policy²⁰ which emphasises the need for good design. In light of the transport statement I have considered²¹ I see no basis for refusal on transportation grounds. Those instructing me have confirmed that all necessary financial contributions to comply with the CIL regulations will be made.

17. I note the following two further material points from the documents I have considered:

¹⁷ A report prepared by Contact Consulting deals with the issue of need/demand for elderly persons accommodation in more detail

¹⁸ I note that the planning application gives full consideration to the protection of and enhancement of biodiversity and the natural environment and to this end the application is accompanied by an ecological survey and a tree survey. The findings of the ecological survey indicate that the development can occur without harming any protected species or habitats, or otherwise affect any habitats of note. The accompanying tree survey indicates that the development can proceed without causing harm to any important trees. Further, substantial additional tree planting is proposed as part of the proposals. See in particular the Biodiversity Assessment that has been carried out by Malford Environmental Consulting Limited

¹⁹ A Landscape and Visual Technical Note has been prepared by Leyton Place Limited.

²⁰ NPPF paragraph 127

²¹ By Pegasus Group

- (i) The application site was put forward as a potential development site in the SHLAA (SF005). The SHLAA concludes that:- *"This is considered to be a potentially deliverable site for about 20 dwellings in the next five year period subject to satisfying access being achieved and careful design and layout to achieve a satisfactory relationship with the existing dwellings in the vicinity."* In my view this would further weigh in favour of the proposal as a consideration.
- (ii) The Appeal Decision from December 2019²². I have referred to this already. In my view the clear finding there by the Inspector that residential proposals in that case would be in accordance with the development plan is of particular relevance given the location of that site. It is also of note that this was the case even at a time when the council could demonstrate a 5 year supply of deliverable housing. That is not something that can now be demonstrated. It would in my view be entirely inconsistent (quite apart from being contrary to the development plan) for the Council to now indicate that the application location was not a suitable or sustainable location for the residential development proposed.

Objections

18. I am instructed that a number of objections have been made to the application. In particular I have seen a letter from Victoria Prentis MP dated the 18th February 2022. I would make the following observations in that regard:

²² As I have referred to above, the site to the south of the application site was granted permission on appeal in December 2019.

- (i) I have seen no evidence to support the contention that the proposed development would lead to a material loss of farmland in a way that would or could preclude a grant of permission or which would be contrary to national or development plan policy.
- (ii) In relation to the suggestion that the 750 target (presumably a reference to PV2) has been exceeded I have addressed this issue above²³. Properly construed and applied in the correct context the 750 figure does not preclude further development. Indeed as I have indicated this particular proposal accords with the development plan viewed as a whole.
- (iii) The suggestion (from her constituents) that the Category A status should be questioned is not a suggestion that should properly be given any weight. S 38(6) of the 2004 Act indicates that the development plan should be considered and applied and the categorisation in policy is clear. It would not be appropriate to seek to change or question that when determining a planning application in my view. The weight to be given to a policy is of course for a decision maker, but the content/construction of policy is quite clear and was derived from an extensive evidence based process.
- (iv) I have seen no credible evidence to support any highways or infrastructure related objections which are hinted at in the letter.

19. In short I do not consider the letter to raise any issues which would (viewed in light of the expert evidence, the development plan and national planning policy) indicate planning permission should be refused.

²³ This issue has been raised in a similar way by others for example the Action Group.

20. I have also considered a number of objections from residents, the Parish Council, the Sibford Action Group and others – many of which raise similar points. Some, for example, have also suggested the Category A status should be questioned. I have dealt with this issue already. I do not consider there to be any cogent basis for the various objections raised relating to infrastructure, traffic or cumulative impacts or design/sustainability. I note that the County Council as Highways Authority have now withdrawn²⁴ earlier objections. Other matters can be adequately dealt with by conditions.

Conclusions

21. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the relevant policies contained within the development plan unless material considerations indicate otherwise.

22. It appears plain that the proposal accords with the development plan viewed as a whole. It is important to appreciate that even if it were felt that there was conflict with some policies as a matter of law a decision maker could conclude compliance with the plan as a whole.

23. In this case, the proposals are consistent with the thrust of policies in the adopted development plan (especially PSD1, PV1, PV2, BSC4, BSC1, 2 & 4, ESD10, 3 and ESC13) so far as the provision of new high quality and sustainable housing is

²⁴ 25.2.22 response

concerned. The evidence is in my view clear. Material considerations – which include the recent nearby appeal decision, the range of benefits that the proposal would deliver and up to date national policy all weigh heavily in favour of the proposal.

24. Further, as the Council are unable to demonstrate a 5 year supply of housing the tilted balance in paragraph 11 (d) NPPF is engaged²⁵ as a material consideration for the decision maker. The statutory presumption in favour of proposals which accord with relevant development plan policies applies as I have explained earlier. This is now bolstered by up to date national policy with the further presumption in favour of sustainable development and the clear indication that sustainable proposals such as this should be viewed in a positive way and be granted permission without delay unless any adverse impacts would significantly and demonstrably outweigh the benefits. This is a material consideration that would normally be quite properly afforded great weight.

25. Whilst matters of planning judgment are not matters for me it is clear that the expert evidence I have seen in support of the application when considered in light of a proper construction and understanding of national and development plan policy indicates that the proposal would accord with relevant development plan policies and that - in any event - there are a range of material considerations which would weigh heavily in favour of a grant of planning permission. None of the various objections I have seen provide a basis for me to change my views.

Tom Cosgrove QC

24th March 2022

Cornerstone Barristers

²⁵ Supported by PPG (national guidance)

2-3 Gray's Inn Square

London WC1R 5JH

From: Simon Tofts <Simon.Tofts@Bluecedarhomes.co.uk>
Sent: 04 April 2022 13:25
To: 'george.reynolds@cherwell-dc.gov.uk'
Subject: Item 11 - Application No. 21/04271/F - Land South of Faraday House, Woodway Road, Sibford Ferris
Attachments: Sibford Ferris - QC Opinion March 2022.pdf

Dear Councillor Reynolds

I am writing to you from Blue Cedar Homes with regards to planning application reference 21/04271/F for the erection of 6 residential retirement properties for people over 55 years old on Land South of Faraday House, Woodway Road, Sibford Ferris.

I would be grateful if you could take a few moments to consider the points below, setting out why this planning application should be approved. I ask kindly that you consider the points below (and the attached full Counsel Opinion from Tom Cosgrove QC) before making a decision as to which way to vote at committee. The proposal:

Helps meet an identified local need for later living homes

The adopted Cherwell Local Plan suggests that "*opportunities for the provision of extra care, specialist housing for older and/or disabled people and those with mental health needs and other supported housing for those with specific living needs will be encouraged in suitable locations close to services and facilities*".

This proportion of the local population aged 55 and over is projected to grow further before the year 2031 by an estimated 54%. This proposal is designed to directly help to address this need, with occupants restricted to those aged over 55 by the planning system.

Homes of this type have proven in other locations to help free-up family-sized homes for occupation by families, having a positive effect on the local housing market for people of all ages and life circumstances.

Is high quality and appropriate for the location

Blue Cedar Homes is not a volume housebuilder. We create bespoke homes with high quality materials, with a strong focus on communal facilities which promote interaction, co-dependence and friendship of residents in their retirement years. The site is within walking distance of village facilities and our schemes naturally generate fewer vehicle movements, because our residents are retired and generally rely less on their cars, especially at peak travel times.

We have listened to and acted upon officer feedback by amending the layout of the site, which the case officer has acknowledged as a positive step in their report. Furthermore, we note the proposed planning condition relating to building materials, and we are committed to making sure that we find an appropriate palette of materials which enhances the character and feel of Sibford Ferris, in collaboration with officers.

The site is surrounded by hedgerows, providing natural privacy of both new and existing residents, representing natural infill. Furthermore, the officer's report acknowledges the fact that this site no longer constitutes viable land for agricultural use, confirmed by the landowner, meaning that our proposals will not compromise future agricultural activity in the local area.

Is supported by adopted Cherwell planning policy

Sibford Ferris (along with Sibford Gower) is defined as a Category A Service Village in the adopted Cherwell Local Plan. The Local Plan is based on evidence, which demonstrates that The Sibfords are a sustainable location for

growth in a district that has not identified sufficient land to meet the projected need for new homes over the next 5 years.

This proposal has been designed from the start to be led by local planning policy. It is not a speculative development, but a genuine attempt to help meet recognised local need for retirement living homes on a site that is sustainably located. The SHLAA concluded that "*This is considered to be a potentially deliverable site for about 20 dwellings...*" - our proposal is for 6 new homes, significantly lower than what the SHLAA identifies as being potentially accommodated.

We have sought legal opinion on this planning application, to confirm our view that our proposal is sound and in general conformity with relevant local and national planning policies (see QC Opinion attached). We are therefore confident that this proposal would stand up to scrutiny by an independent inspector, should we be forced down the route of appealing a negative decision by the Council. However, I would urge you to consider our proposals on their clear merit, avoid further costs or delay, and vote to create 6 new, much-needed purpose built homes for over 55s by approving this planning application.

If you have any questions or wish to seek clarification of any of the points above, please do not hesitate to contact me.

Yours sincerely

Simon Tofts

Land Director

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APPENDIX 4
Decision Notice



NOTICE OF DECISION

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

Name and Address of Agent/Applicant:

Mr Des Dunlop
Suite 3 Westbury Court
Church Road
Westbury on Trym
Bristol
BS9 3EF

Full Planning Determination

Date Registered: 23rd December 2021

Proposal: Erection of 6 one storey age restricted dwellings (55 years) for older people with access, landscaping and associated infrastructure

Location: Land South of Faraday House, Woodway Road, Sibford Ferris

Parish(es): Sibford Ferris

REFUSAL OF PERMISSION FOR DEVELOPMENT

Cherwell District Council, as Local Planning Authority, hereby **REFUSES** to grant planning permission for the development described in the above-mentioned application, the accompanying plans and drawings and any clarifying or amending information. **THE REASONS FOR REFUSAL ARE SET OUT IN THE ATTACHED SCHEDULE.**

Cherwell District Council
Bodicote House
Bodicote
BANBURY
OX15 4AA

A handwritten signature in black ink, appearing to read "D.P." followed by a stylized surname.

David Peckford
Assistant Director – Planning and Development

Date of Decision: 8th April 2022

Checked by: Nathanael Stock

REASONS FOR REFUSAL

1. By reason of its siting outside of the built limits of the settlement, and having regard to the number of dwellings delivered in the rural areas (770 dwellings completed at 31st March 2021), the proposal represents development in an unsustainable location, remote from key amenities, especially for elderly residents. Notwithstanding the Council's present lack of a five year housing land supply the proposal conflicts with Policy BSC1 of the Cherwell Local Plan 2011-2031 and saved Policy H18 of the Cherwell Local Plan 1996 and Government guidance in the National Planning Policy Framework. This identified harm significantly and demonstrably outweighs the proposal's benefits of providing additional housing.
2. By reason of its scale, layout and design, the proposal would be out of keeping with the form and pattern of development in the local area, resulting in significant and demonstrable harm to the character and appearance of the area. The proposal therefore conflicts with Policy ESD15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996, the Cherwell Residential Design Guide, National Design Guide, and Government guidance in the National Planning Policy Framework.

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) and paragraph 38 of the National Planning Policy Framework, Cherwell Council has given consideration to whether amendments or additional information would overcome its concerns with the application, but unfortunately it has concluded that it would not be possible to resolve those concerns within the scope and timescales of this application. Cherwell Council has resolved that the application proposals do not amount to sustainable development and consent must accordingly be refused.

The case officer's report and recommendation in respect of this application is available to view online at: <http://www.cherwell.gov.uk/viewplanningapp>. The agenda, minutes and webcast recording of the Planning Committee meeting at which this application was determined are also available to view online at: <http://modgov.cherwell.gov.uk/ieListMeetings.aspx?CId=117&Year=0>



NOTICE OF DECISION

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

NOTES TO THE APPLICANT

REFUSAL OF PERMISSION

The Local Planning Authority has refused consent for the reasons set out in the schedule forming part of this notice of refusal. A further explanation of the reasons for the decision can be found in the planning officer's report, which can be viewed in Public Access via the council's web site.

If you wish to examine any of the development plans which set out the Local Planning Authority's policies and proposals for the development and use of land in its area, these are available for inspection on our website, or at the District Council offices, Bodicote House, Bodicote, during normal office hours.

APPEALS TO THE SECRETARY OF STATE

If you are aggrieved by the decision of the Local Planning Authority to refuse to grant planning permission or grant planning permission subject to conditions, you can appeal to the Secretary of State in accordance with Section 78(1) of the Town and Country Planning Act 1990.

If you wish to appeal, then;

- For **Householder** applications you must do so within **12 weeks** of the date of the decision
- For **Minor Commercial** applications you must do so within **12 weeks** of the date of the decision
- For **all other types** of planning applications, you must do so within **6 Months** of the date of the decision

Unless:

- The decision on the application relates to the same or substantially the same land and the development is already the **subject of an enforcement notice** then you must appeal within **28 days** of the date of the Local Planning Authority's decision on the planning application.
- If an **enforcement notice is served** relating to the same or substantially the same land and development as in your application and if you want to appeal the decision, then you must do so within **28 days** of the service of the enforcement notice, or 6 months (12 weeks for householder and minor commercial) of the date of this decision whichever is the sooner

Forms can be obtained from the **Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN. Tel 0303 444 5000. Or online at <https://acp.planninginspectorate.gov.uk>**. The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to him that permission or approval for the proposed development could not have been so granted otherwise than subject to the conditions imposed by the Local Planning Authority, having regard to the statutory requirements, to the provisions of the development order and to any directions given under the order.

In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based its decision on a direction given by him.

PURCHASE NOTICES

If either the Local Planning Authority or the First Secretary of State refuses planning permission or approval for the development of land, the owner may claim that he/she can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances the owner may serve a purchase notice on the District Council. This notice will require the Council to purchase his/her interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

COMPENSATION

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused by the Secretary of State on appeal or on reference of the application to him.

These circumstances are set out in the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.

APPENDIX 5
Relevant HEELA extract for appeal site

Site ref	Settlement	Gross site area (ha)		
SF005	Sibford Ferris	0.8		
Site address	Current/previous landuse	Type of site		
Land east of Woodway Road	Agriculture	Greenfield		
Planning status	No planning status			
Description of site				
The site is located within the south western part of the part of the village. To the north and east of the site lies residential development (medium/low density two storey housing), to the south open fields and to the west the site is bounded by Woodway Road which leads towards Hook Norton.				
Planning history				
There is no relevant planning history.				
Policy context				
Sibford Ferris is one of the most sustainable rural settlements in the district with a range of services and facilities, with additional facilities available at the nearby Sibford Gower and Burdrop. The site is within reasonable walking distance of village services. The site is however greenfield. It is beyond the existing built limits of the village although is positioned adjacent to existing residential development, in between two roads (Woodway Road and Hook Norton Road).				
Physical constraints				
There are records of swifts in proximity to the site (to the north) and to the north east lies an archaeological constraint priority area. The primary constraint on development in this area is the need to achieve satisfactory access. Where Woodway Road bends round the site, the road is a single car width only, with no road markings, no pavement, and is more of a rural track.				
Potential impacts				
The key potential impacts in this location are likely to be on residential amenity in terms of proximity to existing residential development. Access issues would be a key consideration with significant improvement required.				

Suitability summary

There are few physical constraints and limited potential impacts and the site is therefore considered to be suitable for residential development. Woodway Road would form a defensible western boundary to the site and provide for access whilst to the south the site is well screened by a mature hedge.

Market appraisal

Since the SHLAA was completed for Cherwell in 2013, the housing market update provides evidence of strengthening conditions. Local market evidence underlines this view, together with favourable macroeconomic indicators, and increased housebuilder activity. While of course the housing market will be almost undoubtedly be subject to future cyclical fluctuations, at the very least, the short to medium term prospects are good.

In the 2013 SHLAA a series of nominal sites were tested for their indicative viability. The updated housing market evidence suggests that the positive viability demonstrated for these sites at this time is still present – and indeed scheme viability is likely to have improved. The positive attributes Cherwell possesses in terms of its location and existing and planned infrastructure further serve to make the District an attractive housing area.

Availability summary

The site has been promoted through the 2014 SHLAA call for sites on behalf of the landowner, for 20 dwellings.

Achievability summary

From the information available, it is considered that there is a reasonable prospect that housing could be delivered on the site if the land were to be released. The site is available and potentially suitable if required by the Council and policy issues can be overcome. The site is therefore potentially developable within the plan period and worthy of further consideration. The site promotion indicates that the site would take 0-5 years to complete.

Yield by year:

2014 - 2019	2019 - 2024	2024 - 2029	2029 – 2031	Final density	Final suggested yield
20	0	0	0	24	20

Yield summary

The theoretical density multiplier in this location is 35 dph which would result in a yield of 28 dwellings. Given the relatively low density of the surrounding residential development, and the site submission promoting the site for up to 20 dwellings, a reduction in the density would be appropriate to achieve 20 dwellings on the site (a final density of 25 dph).

Conclusion

This is considered to be a potentially developable site providing for about 20 dwellings in the next five year period subject to satisfactory access being achieved, and careful design and layout to achieve a satisfactory relationship with existing dwellings in the vicinity.

Site Ref:
SF005



APPENDIX 6

**Appeal decision on OS Parcel 4300 North of Shortlands and South of High Rock,
Hook Norton Road, Sibford Ferris, Oxfordshire OX15 5QW
(i.e. land to the south of the appeal site)**



Appeal Decision

Site visit made on 25 September 2019

by **Stephen Wilkinson BA BPI MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 December 2019

Appeal Ref: APP/C3105/W/19/3229631

OS Parcel 4300 North of Shortlands and South of High Rock, Hook Norton Road, Sibford Ferris, Oxfordshire OX15 5QW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Land and Partners against the decision of Cherwell District Council.
- The application Ref 18/1894/OUT, dated 29 October 2018, was refused by notice dated 30 April 2019.
- The development proposed is outline planning permission with all matters reserved for up to 25 dwellings, associated open space, parking and sustainable drainage.

This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 5 November 2019.

Decision

1. The appeal is allowed and outline planning permission with all matters reserved for up to 25 dwellings, associated open space and sustainable drainage is granted at OS Parcel 4300 north of Shortlands and south of High Rock, Hook Norton Road, Sibford Ferris, Oxfordshire, OX15 5QW in accordance with the terms of the application, Ref 18/1894/OUT, dated 29 October 2018, subject to the conditions included in the schedule attached to this letter.

Procedural Matters

2. The application has been submitted in outline with all matters reserved and this is the basis on which I considered this appeal. At the start of the Hearing I sought clarification over the proposed 'parameter plan' as two different revisions had been included for my consideration. I accepted the revised plan no. 6426/ASP3/PP Rev D which included a typographical change to the legend and my decision has been made on this basis.
3. A draft agreement made under Section 106 of the Town and Country Planning Act 1990, as amended, agreed by all parties was presented to me during the Hearing. This has been completed and informs my conclusion on the third main issue identified below.
4. In the week following the Hearing the Government issued a National Design Guide. I wrote to the parties seeking their views on whether this Guidance had any bearing on their cases and my findings have taken on board their views.

Main Issues

5. There are three main issues in this Appeal which I define as follows:
 - Whether the proposals comply with the housing policies of the development plan
 - The effect of the proposals on the character and appearance of the settlement of Sibford Ferris and the surrounding area, and
 - Whether the proposals include adequate provision for the necessary infrastructure directly required by this development.

The appeal site

6. The appeal site forms part of an arable field, classified as Grade 2, with a site area of about 3.7ha located on the southern edge of Sibford Ferris on the western side of Hook Norton Road. The site slopes down by approximately 10m to Woodway Road, a single track road which forms its western boundary. The site affords good views to the west of the Cotswolds Area of Outstanding Natural Beauty which lies approximately 1.5km away. The appeal site has hedges along each boundary apart from its southern side which is open to the remainder of the arable field.
7. Sibford Ferris is separated from its nearest settlements of Sibford Gower and Burdrop by approximately half a mile across the steep valley of the River Sib. For this appeal I will refer to these settlements, collectively, as the 'Sibfords'. Together they have a population of approximately 1,000 residents. The valley sides are characterised by small wooded copses and paddocks laced with footpaths. The Sibfords have a range of services which include, doctors surgery, primary school, public house, food shop and post office. Sibford School, a private school lies opposite the site on Hook Norton Road. Limited bus services connect the Sibfords to Banbury and Stratford.

Reasons

Policy background

8. The development plan comprises the Cherwell Local Plan 2011-31, Part 1 (2015) (CLPP1) and 'saved' policies Cherwell Local Plan (1996). The Policies cascade from principles of sustainable development included in Policy ESD1 in line with the National Planning Policy Framework (2019) and seek to distribute growth to the most sustainable locations to ensure that amongst other matters, dependence on private transport is reduced.
9. Accordingly, the CLPP1 requires that the district wide housing target of 22,840 is delivered in the main centres of Bicester and Banbury. Outside these two centres the plan allocates 2,350 houses with 1,600 houses proposed for the former RAF base at Upper Heyford. The plan recognises the importance of sustaining rural villages and through Policy Villages 1 (PV1) defines categories of village by criteria which include their population, services/facilities, and accessibility. The focus of this policy is to 'manage' small scale development proposals which come forward within the built up limits of each village through minor development, infilling or conversions.
10. Policy Villages 2 (PV2) provides a rural allocation of sites of 10 or more dwellings at the Category A villages. This policy identifies that 750 houses will

be delivered at Category A villages; this would be in addition to the 'rural allowance' of small site windfalls and planning permissions that existed at 31st March 2014. Underpinning this policy is a recognition of the need to deliver housing growth evenly across the whole District at the larger villages. A range of criteria to guide new development in Category A villages is identified in policy PV2 covering matters such as the environmental qualities of sites, agricultural value, access to services and landscape impacts.

11. At the time of adoption of the CLPP1 the Council anticipated that it would prepare a CLP Part 2 which would have identified housing sites which would have informed policy PV2. This part of the Plan has not progressed because of the inception of the 'growth deal' for Oxfordshire.

Whether the proposal would be in accordance with the housing policies of the development plan

12. There are two issues underpinning the application of adopted policy to this site with the first concerning the total of 750 homes to be delivered at the Category A villages and the second on whether the proposed scheme accords with other housing policies.
13. The Council acknowledges that the 750 housing figure is not a target. A point reinforced by my colleague Inspectors in recent appeal decisions. However, it should be regarded as a benchmark to govern future decisions on applications for housing development otherwise the integrity of the plan would be undermined. The Council can identify 5.2 years housing land supply in excess of the requirement for just 3 years required for the Oxfordshire Districts. Furthermore, it can demonstrate that 168 houses have been delivered against the PV2 target of 750 houses despite the Plan being only 4 years through its 16 years 'life'. The Council's statement identifies that across the District 7,455 houses were completed of which 2,765 are in the rest of the District and a further 6,715 houses are committed of which 1,129 are in the rest of the District.
14. The Council identifies that by 31st March 2019 planning permissions had been granted for over 750 houses on 18 large sites and to date 271 units had been built out on these sites in line with policy PV2. However, none of these have been permitted within the Sibfords. Evidence provided through the Annual Monitoring Report (AMR) acknowledges the accelerating rate of delivery since 2015 and the Council anticipate that the 750 homes will be built out by 2028.
15. During the Hearing both parties made references to a large number of appeal decisions involving similar housing schemes throughout the District. Underpinning many of these decisions is the issue of 'material exceedance', a term used to describe the extent to which decisions to allow development above the figure of 750 houses for the Category A villages would erode the basis of the CLPP1. Whilst I do not have all the evidence before me regarding each of these appeal decisions there was discussion during the Hearing of a recent appeal decision¹, which had been allowed for an additional 84 dwellings at Ambrosden, another Category A village within the District albeit with a much larger population and containing a broader range of services. Again the issue of 'material exceedance' had informed the decision to allow the Appeal.

¹ APP/C3105/W/19/3228169

16. I do not consider 'material exceedance' to be an issue for this appeal given the modest number of units proposed and the categorisation and size of the Sibfords. The Category A status of the village in the plan warrants further investment in housing. Although the plan period is only 4 years old I do not consider that a decision to allow this appeal would undermine the essential thrust of policy PV2 and by extension the local plan.
17. The second issue is the extent to which the proposals are acceptable against other housing policies included in the CHPP1.
18. The principles of sustainable development, identified in the National Planning Policy Framework (2019) (the Framework), underpin policy PSD1 at several levels within the CLPP1. At a strategic level the policy seeks to ensure that development will be concentrated in the main centres, then outside those there is an allowance for development within the rural areas but concentrated within the Category A villages which are defined by their range of services and being located throughout the District would support a balanced pattern of growth. Finally, at another level within each village specific sites have to be 'sustainable' in how they function in their local context with regard to a range of criteria.
19. The Sibfords are identified as a Category A village because of several factors including its population and range of services. These services are spread across each of the 3 settlements. I acknowledge that local connectivity between them via walking and cycling is restricted by the steep sided Sib valley but these services do exist within reasonable proximity of the appeal site. Given the spread of services across each settlement it is unlikely that the development of any site around the Sibfords would readily enable access by sustainable transport modes. This is an argument against the inclusion of the Sibfords as a Category A village but is not a matter before me in this Appeal.
20. Policy PV2 identifies a broad range of criteria which would have informed the CHLPP2 allocations, not all of which are relevant to the issues concerning this appeal. However whilst the site does not comply with several of these I consider that the principle of some form of development on at least part of this site has been accepted. In addition, I accord moderate weight to the inclusion of the part of the appeal site in the Council's Housing and Economic Land Availability (HELAA 2018) for up to 10 houses.
21. The scheme would provide for 35% affordable housing in line with policy. I understand that one of the reasons for the Council's decision resolving to grant permission for a scheme in 2014 was the inclusion of 6 affordable homes to meet local housing need following the Housing Needs Survey in 2010 and the Register of Interest in 2013.
22. Part of the case presented by the Sibford Action Group (SAG) referred to the poor level of service provision in the Sibfords substantiating why further development should not occur. Whilst it is difficult to determine the exact impact that 25 new households would have on local services such as the local shop, it is a fair assumption that this is likely to be positive in supporting it.
23. For the above reasons on this main issue I conclude that the proposals would be in line with adopted housing policies and in line with the Framework. The proposals are in line with policies PSD1, PSV1 and PSV2 of the CHPP1. They are not in conflict with 'saved' policy H18 given the status of the village defined by

PSV1 and PSV2. The scheme would not amount to a material exceedance in breach of policy PV2 and would deliver housing in line with other policies of the Plan.

Character and Appearance

24. Sibford Ferris is a linear village extending northwards along Hook Norton Road before turning east above the Sib valley. The village's linear character means that its rural landscape prevails with the village being a subservient element. For example, the well treed Sib valley restricts views between the Sibfords reducing the impacts of the settlement pattern on landscape. Over the last 20 years new housing has been integrated into the existing settlement pattern in a sensitive way.
25. The appeal site's boundaries are formed by hedges on each side apart from the southern edge which is open to the remainder of the arable field. The site sits on top of a broad ridge above the Sib valley and further away, to the south the Stour valley. When viewed from the south and west across both valleys the appeal site appears as an extension to arable fields. The line of trees on the western edge of the Sibford School is a critical boundary to the edge of the settlement. The site has no statutory or non statutory landscape designations.
26. The adopted policies ESD 13 and ESD15 included in the CLPP1 seek to both protect landscapes and to ensure that new development responds positively to an area's character through creating or reinforcing local distinctiveness. These policies are underpinned by the 'saved' policy C28 of the Cherwell Local Plan (1996) designed to ensure that new development is sympathetic to its rural context and high value landscapes.
27. Where adherence to these policies is not possible proposals will not be permitted if they cause undue visual intrusion into the countryside, impact on its natural landscape and topography and be inconsistent with local character. These policies are consistent with several of the criteria included in policy PV2 which seek amongst other matters, to avoid adverse landscape impacts of new development and to avoid development on the best and most versatile agricultural land.
28. Although the site lies outside the Cotswolds Area of Outstanding Natural Beauty (AONB) its landscape context is shaped by this. Furthermore, the site lies in Character Area 13 of the Oxfordshire Wildlife and Landscape Study defined as an area of 'Rolling Village Pastures' and close to another landscape type, 'Wooded Pasture Valleys and Slopes'. The nature of this rolling landscape interspersed with hedgerows and copses means that views into the site from its immediate boundaries are limited compared to those from further away. For example, the proposed area of housing would be difficult to see from Woodway Road due to the slope the land and height of the hedge.
29. The appeal site would create a new pattern of development as an extension to the southern edge of the village. The indicative drawings identify that development would be set in the north east corner of the site with housing of 2.5 storeys which steps down towards the middle of the site to 1.5 storeys. Within the appeal site the extent of development would be limited and when set against existing development at Margaret Lane House (part of the Sibford School), it would extend the village envelope by only a small area. The

suggested height parameters are important in reducing the visual impacts of the scheme from surrounding receptor points.

30. Whilst there are differences in approach to their respective landscape studies both the Appellants and the SAG identify a range of receptor points from which to gauge the impact of the scheme on landscape and visual character. However neither study include montages of the proposed development or images of what the site could look like after 1 and 15 years – critical points in the ‘life’ of a development.
31. Having visited several of the receptor points and considered the views included in both reports in detail I conclude that potentially the two most sensitive receptor points are from the west from the Cotswolds AONB and from the south. From the former I consider that the integrity of the landscape would not be compromised by this development. This is in part because within the appeal site the dwellings would be set close to existing housing and only marginally extend the pattern of development to just south of Margaret Lane House which forms part of the Sibford School. Furthermore, the line of trees along the boundary of the Sibford School along Hook Norton Road would still be the dominant landscape feature when the site is viewed from the west. For these reasons I consider that the proposals would not have an ‘urbanising effect’ on the site and its surroundings as the Council have stated.
32. From my own observations I find that the appeal site is most prominent when viewed at just over 1km away from the south along D’Arcy Dalton Way. This is particularly important given that at this point the appeal site would not have a natural edge to its southern boundary. However, the scheme does include mitigation along this edge in the form of tree planting. The Appellants Landscape and Visual Appraisal recognises that the proposed scheme would be contained within the existing landscape. The concentration of development at the north east corner of the site and its relative low density would reduce its intrusiveness.
33. The National Design Guide 2019 builds on Chapter 12 of the National Planning Policy Framework (NPPF) 2019 which requires, amongst other matters, that new development reflects its landscape context and setting. Having viewed the site from a number of receptor points I consider that its low density combined with the extent of proposed planting belts would ensure that the proposal could be ‘accommodated’ within its context.
34. On this issue I conclude that the proposals would not cause unacceptable harm to the landscape setting of the Cotswolds AONB and the setting of Sibford Ferris. For these reasons I consider that the proposed scheme would not be in conflict with saved policies C28 of the Cherwell Local Plan (1996) and ESD 13, ESD 15 and PV1 and PV2 of the CHPP1.

Infrastructure provision

35. The completed section 106 agreement includes a range of provisions. These cover the requirement that 35% of the dwellings are ‘affordable’, provision of and commuted payments for local play area and public amenity space within the scheme, maintenance arrangements for onsite trees and boundary hedgerows, and a sustainable drainage system. Other provisions include a contribution to the provision of waste management facilities and community hall facilities and contributions to the local secondary school and the Sibford

School for indoor and outdoor recreation opportunities. The agreement includes provisions made under section 278 for a new pedestrian footway, crossing and access into the site, bus shelter, local play and provisions for a traffic regulation order to ensure lower speed on Hook Norton Road as drivers approach from the south.

36. Overall, the obligations included in the agreement are related to the requirements of development plan policies and are necessary, directly related and fairly and reasonably related in scale and kind to the proposed scheme, in line with paragraphs 56-57 of the National Planning Policy Framework 2019.

Other Matters

37. Interested parties raised issues regarding matters which I address in turn below.

Unsustainability of the Sibfords to take more development

38. The Sibfords are a Category A settlement included in the local plan. Although the Inspector at the local plan inquiry did consider that the hierarchy of settlement types was not set in stone this is a matter for a review of the local plan and not one for me to determine in this appeal. This categorisation of village types was based on the range of factors including local service provision. Whilst I acknowledge that journey times between the Sibfords would be hindered by the quality of the local highway network and the Sib valley, potentially leading to more private transport use than would be normally expected, a range of services consistent with Category A settlements does still operate in the Sibfords for the benefit of residents of the appeal scheme.
39. Many of the decisions of my inspector colleagues to dismiss appeals in other villages within the District can be distinguished from this case for several reasons. In some cases the scale of development was large compared to the size of the original village. For example, in Finmere, the appeal² was dismissed for 47 houses but the range of services was limited as the village had no shop or post office. The Sibfords do have a shop and other services. In other cases the appeal proposals would add to further development given extant permissions as in the cases³ of both Weston on the Green and Chesterton. The Sibfords have not experienced new development since the adoption of the Local Plan.
40. In other appeals other factors such as substantial harm to heritage assets prevailed. For example, in Kirtlington and Cropredy the impact of proposals on the setting of listed buildings and the character and appearance of a conservation area was cited respectively as reasons for dismissal⁴. These are not matters relevant to this appeal.

Traffic generation and congestion

41. The amount of traffic generation arising from the appeal scheme was not identified in the Council's reasons for refusal. Whilst representations from interested parties focused on the extent of additional traffic generation arising from the appeal proposal, I did not receive other evidence to dispute the

² APP/C3105/WW/17/3169168

³ APP/C3105/W/16/3158925 and APP/C3105/W/15/3130576

⁴ APP/C3105/W/14/3001612 and APP3105/WW/17/3187461

Appellants traffic survey which indicated that during the critical morning and evening peaks the amount of traffic generation would be between 10 and 12 vehicles generated an hour by the proposals.

42. I acknowledge the CRAILTUS survey completed in 2009 and its conclusions on the use of private transport in the Sibfords but this matter was considered as part of the local plan which designated the village as a Category A village. Furthermore, although representations from SAG addressed concerns over the levels of congestion in the village caused by the amount of traffic passing through the narrow village roads, compounded by the 'school run' to the Sibford school I saw only limited examples of this during this critical time when I visited the village. Furthermore, during two visits to the village I observed that the amount of traffic on local roads was low. Although I acknowledge that bus services to the village have been reduced since the local plan's adoption in 2015 I still consider that the inclusion of new housing could go some way to sustaining the existing level of service provision.
43. Although the proposals would involve the loss of Grade 2 agricultural, land this has to be balanced against the benefits which the proposals could make to the provision of additional housing.
44. Finally, a further objection referred to concerns over flooding. The site lies in the Flood Zone 1 and a Flood Risk Assessment submitted with the appeal identified that the risk of flooding was low. Furthermore, the scheme does include sustainable urban drainage.

Planning balance and conclusions

45. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (2019) places considerable emphasis on sustainable development and highlights the delivery of new housing as a national priority.
46. The appeal proposals are consistent with the essential thrust of the housing policies included in the adopted CHLPP1. In particular, they are consistent with ESD1 and in line with policies PV1 and PV2. Set against this is the number of dwellings included in extant permissions in the Category A villages across the District which exceeds the 750 dwellings included in policy PV2. However, I do not consider that the appeal proposals represent a material exceedance to this figure given its modest size and they would not undermine policy PV2 and the basis of the local plan. Furthermore, the scheme includes a quantum of affordable units compliant with policy.
47. In addition, the scheme includes other features including a path across the site improving permeability, allotments and local play facilities. These key into some concerns identified in the non-statutory Sibford Action Plan (2012) and are consistent with adopted policies in the CHPP1. I have already identified the obligations included in the completed section 106 agreement which through contributions would improve local highways, restrict speeds into the village along Hook Norton Road and support active lifestyles through contributions to the facilities of the local secondary school and the Sibford School. In addition, 25 new households would go some way to support local services.

48. Whilst the proposed schemes location on the edge of the village does form a limited extension to its current settlement pattern this must be seen in the context of this site set close to Margaret Lane House. The integrity of the landscape character is not compromised by the scheme. The character of the landscape means that the scheme's visual impacts are reduced. Its most sensitive southern boundary can be adequately mitigated through landscaping. The details of this can be determined at reserved matters stage.
49. Taking into account all these matters I conclude that the appeal is allowed and outline planning permission is granted subject to the conditions included in the attached schedule.

Conditions

50. During the Hearing there was a discussion between the main parties on the draft conditions. Having considered these further, I am making a series of small amendments to ensure full compliance with Planning Practice Guidance. I have imposed a condition specifying the timeframes for the commencement of development and for the submission of outstanding reserved matters as required by Sections 91 and 92 of the Town and Country Planning Act 1990, as amended. A condition is required to ensure that the development is carried out in accordance with the plans and documents submitted with the application to ensure adherence to the principle of the proposed development hereby approved. Other conditions require a Construction Traffic Management Plan and Construction Environmental Management Plan to ensure that the operational works to complete the scheme do not adversely impact on the living conditions of surrounding residential occupiers, avoid potential conflict with highway users and protect the environment and biodiversity.
51. A condition requiring a Landscape and Ecology Management Plan is required to identify the habitats to be created in the scheme including the requirement for bat and bird boxes in line with both local and national policy. A condition requiring an energy statement is required to ensure that the energy consumption is minimised during construction and on completion to deliver a low carbon development in line with both local and national policy. A condition is required to ensure archaeological investigations are completed in advance of works proceeding following advice received from the County Council.
52. Other conditions include a need for detailed drawings of the proposed access from Hook Norton Road to ensure highway safety. A condition is required to address contamination if this is found on site. Finally, a condition is required for a starter pack for new homes advising on sustainable modes of travel to ensure that the use of private transport is reduced.

Stephen Wilkinson

Inspector

Schedule of Conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "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.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved and submitted plans and documents: Site Location Plan 1; 2500 scale (Promap), Concept Schematic 6426/ASP3/PP – Rev D Parameter Plan and 6426/ASP4/LSP-Rev A-Landscape Strategy Plan, Design and Access Statement; Flood Risk Assessment; Arboricultural Impact Assessment; Ecological Impact Assessment; Archaeological Desk Based Assessment; Flood Risk Assessment and Drainage Strategy report and drawings labelled 3361.101.
- 5) Prior to commencement of the development hereby approved, full details of the means of access between the land and the highway shall be submitted to and approved in writing, by the Local Planning Authority. The access shall be broadly in accordance with the positioning indicated on the approved plan 3361.101-Concept Schematic, 6426/ASP3/PP and include detail of layout and vision splays. Thereafter and prior to the first occupation of any of the development the means of access shall be constructed and retained in accordance with the approved details.
- 6) Prior to the first occupation of the development hereby approved a travel information pack shall be submitted to and approved by the Local Planning Authority. Thereafter and upon occupation the first residents of each dwelling shall be provided with a copy of the approved information pack.
- 7) 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 approved CTMP shall be implemented and operated in accordance with the approved details.
- 8) Prior to commencement of the development hereby approved, full details of a surface water drainage scheme for the site detailing all on and off site drainage works required in relation to the development which shall

be broadly in accordance with the drainage proposals set out in the submitted flood risk assessment produced by JNP Group Consulting Engineers and which shall include a sewer modelling assessment shall be submitted to and approved in writing by the local planning authority. The development shall not be carried out other than in accordance with the approved scheme, until such time no discharge of foul or surface water from the site shall be accepted from the site into the public system. The scheme shall also include:

- Discharge rates
 - Discharge volumes
 - SUDS (permeable paving, soakaways, infiltration devices, attenuation pond, swales)
 - Maintenance and management of SUDS features to include a SUDS management and maintenance plan
 - Sizing of features – attenuation volume
 - Infiltration in accordance with BRE 365 (to include comprehensive infiltration testing and annual monitoring recording of ground water levels across the site).
 - Detailed drainage layout with pipe numbers
 - Network drainage calculations
 - Phasing
 - Flood flow routing in exceedance conditions (to include provision of a flood exceedance route plan).
- 9) Prior to the commencement of the development hereby approved, a landscape and ecology management plan (LEMP) showing how all habitats will be created managed and funded and to include details of a bat and birdbox scheme shall be submitted to and approved in writing by the local planning authority. Thereafter, the development shall not be carried out other than in strict accordance with the approved LEMP.
- 10) Prior to the commencement of the development hereby approved, including any site clearance, a Construction Environmental Management Plan (CEMP), which shall include details of the measures taken to ensure that construction works do not adversely affect biodiversity, shall be submitted to and approved in writing by the local planning authority. Thereafter, the development shall not be carried out other than in strict accordance with the approved CEMP.
- 11) If during development, contamination not previously identified is found at the site, no further development shall be carried out until full details of a remediation strategy detailing how the contamination shall be dealt with has been submitted to and approved by the Local Planning Authority. Thereafter, the remediation strategy shall be carried out in accordance with the approved details.
- 12) Prior to or as part of the first reserved matters submission, an Energy Statement shall be submitted to and approved in writing by the Local Planning Authority. The Energy Statement should:

- Be structured in accordance with the energy hierarchy in ESD2 of the Cherwell Local Plan 2011-31 Part 1 with information provided on each element of the hierarchy
- Inform and be reflected in the reserved matters
- Include a description of the development, number and type of residential units,
- Demonstrate sustainable construction methods as per Policy ESD3 of the Cherwell Local Plan Part 1 2011-31, and
- Consider the use of renewable energy to supply the development.

Thereafter, the development shall be carried out in strict accordance with the recommendations and measures contained in the approved Energy Statement.

- 13) Prior to or as part of the submission of the first reserved matter a Written Scheme of Archaeological Investigation shall be submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions:
- i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment;
 - iii) the provision to be made for analysis of the site investigation and recording;
 - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v) the provision to be made for archive deposition of the analysis and records of the site investigation;
 - vi) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

APPEARANCES

FOR THE APPELLANT:

Jonathan Harbottle	Director, Land and Partners
Alex Dalton	Project Planner, Land and Partners
Tom Hutchison	Projects, Land and Partners
Dan Skinner	Land and Partners
Ben Wright	Director, Aspect Landscape Planning Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Nathanael Stock	Team Leader, Cherwell District Council
Matthew Barratt	Solicitor

INTERESTED PERSONS:

Duncan Chadwick	Partner, David Lock Associates
David Newman	Quartet Design
Ginny Bennett	Parish Councillor, Sibford Ferris
Roger Mallows	Parish Councillor, Sibford Gower
Robin Grimston	Local Resident
John Perriss	Sibford Action Group

APPENDIX 7

Reserved matters layout and house details for

land to the south of the appeal site



NOTES:
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ALL DIMENSIONS ARE TO BE CHECKED AGAINST ACTUAL SITE
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REVISIONS
Rev. Date Description

Client :
GADE HOMES

Job :
SIBFORD FERRIS
BANBURY

Drawing Title:
Proposed
Coloured Site Plan

Scale:
1:500 @ A1

Date: Drawn By Checked
Feb 2022 MM

Drawing No: Revision:
3699.117 F

PLANNING

The White Barn, Manor Farm, Manor Road
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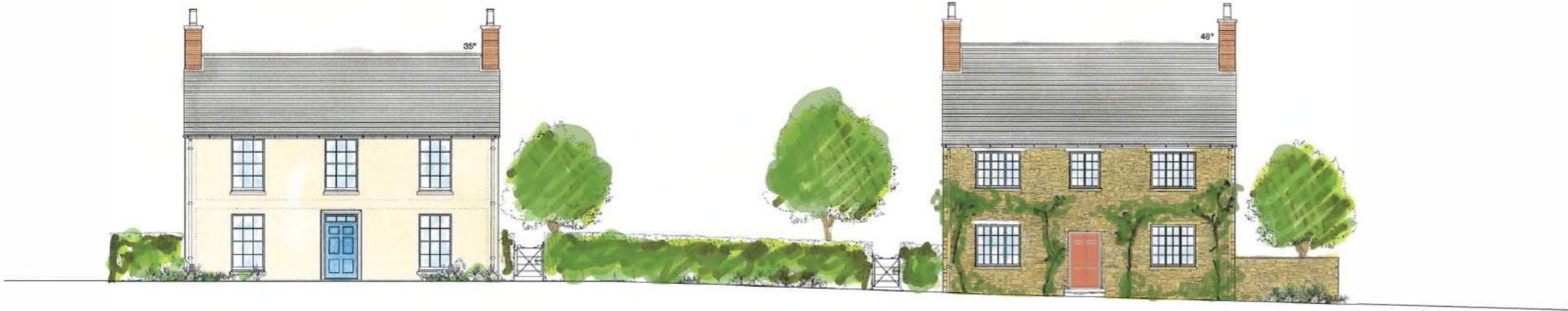
info@bpharwood.co.uk - www.bpharwood.co.uk

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A R C H I T E C T S



25

24



1 HOOK NORTON ROAD - STREET ELEVATION SOUTH
1:100 @ A1 / 1:200 @ A3

3-6

7-9

10-12

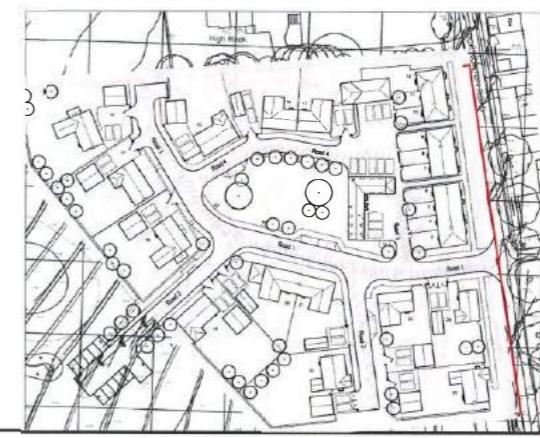


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1:100 @ A1 / 1:200 @ A3



3 HOOK NORTON ROAD - STREET ELEVATION
1:250 @ A1 / 1:500 @ A3

0 5 10 20m



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PROJECT: SIBFORD FERRIS
TITLE: HOOK NORTON ROAD ELEVATION

DRAWING NO: -	REV. NO: -
SCALE: 1:100 @ A1 1:200 @ A3	DRAWN BY: RH
DATE: 24.06.21	CHECKED BY: RI

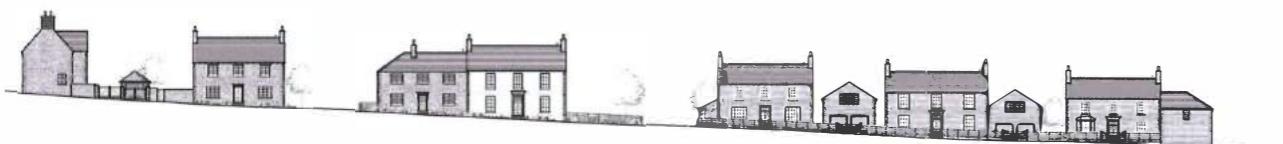
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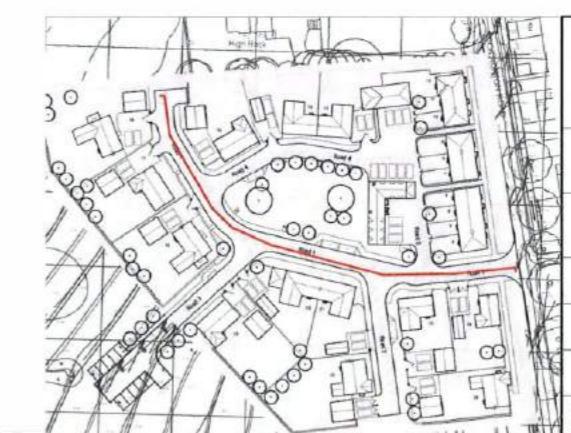


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1:100 @ A1 / 1:200 @ A3



3 ROAD 1 - STREET ELEVATION
1:500 @ A1 / 1:1000 @ A3

0 5 10 20m



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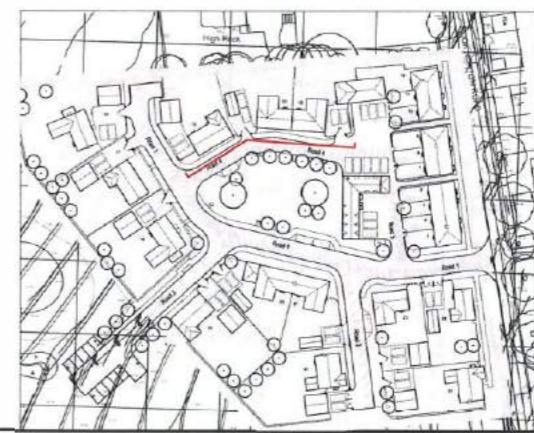


1 ROAD 4 - STREET ELEVATION
1:100 @ A1 / 1:200 @ A3



2 ROAD 4- STREET ELEVATION
1:500 @ A1 / 1:1000 @ A3

0 5 10 20m



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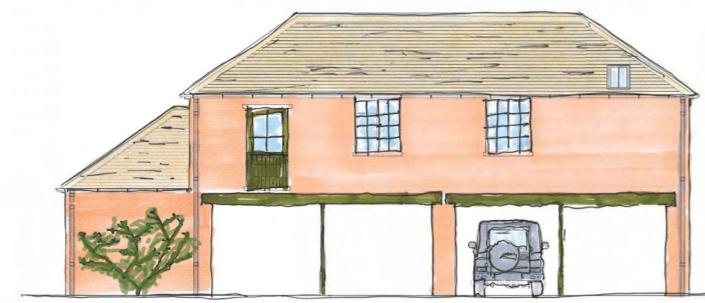
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SCALE: 1:100 @ A1
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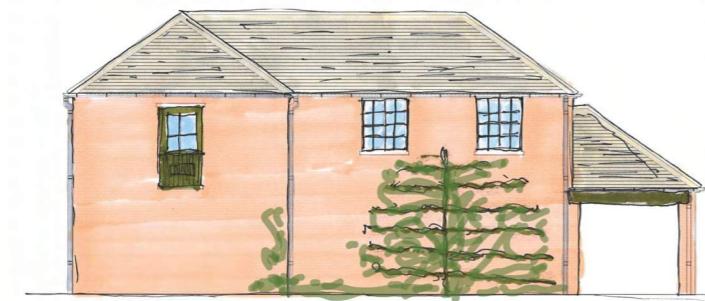
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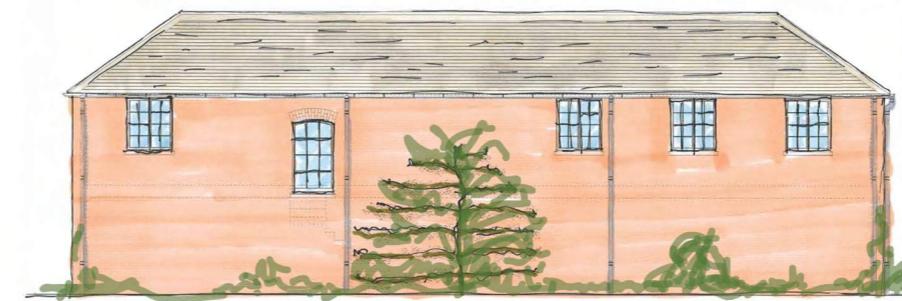
1 NORTH ELEVATION
1:100 @ A1 / 1:200 @ A3



2 EAST ELEVATION
1:100 @ A1 / 1:200 @ A3



3 SOUTH ELEVATION
1:100 @ A1 / 1:200 @ A3



4 WEST ELEVATION
1:100 @ A1 / 1:200 @ A3

0 5 10 20m

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PROJECT:	SIBFORD FERRIS
TITLE:	PLOTS 1-2 ELEVATIONS
DRAWING NO:	REV. NO:
SCALE:	1:100 @ A1 1:200 @ A3
DATE:	CHECKED BY: 24.06.21 BP

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APPENDIX 8

Relevant extract from Cherwell Local Plan 2016

and Cherwell Local Plan 1996

The Cherwell Local Plan 2011 – 2031

your place • your space
• your say



Part 1 Adopted 20 July 2015

(incorporating Policy Bicester 13 re-adopted on 19 December 2016)

July 2015

Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

increasing local resource efficiency (particularly water efficiency), minimising carbon emissions, promoting decentralised and renewable or low carbon energy where appropriate and ensuring that the risk of flooding is not increased.

SO 12 To focus development in Cherwell's sustainable locations, making efficient and effective use of land, conserving and enhancing the countryside and landscape and the setting of its towns and villages.

SO 13 To reduce the dependency on the private car as a mode of travel, increase the attraction of and opportunities for travelling by public transport, cycle and on foot, and to ensure high standards of accessibility to services for people with impaired mobility.

SO 14 To create more sustainable communities by providing high quality, locally distinctive and well designed environments which increase the attractiveness of Cherwell's towns and villages as places to live and work and which contribute to the well-being of residents.

SO 15 To protect and enhance the historic and natural environment and Cherwell's core assets, including protecting and enhancing cultural heritage assets and archaeology, maximising opportunities for improving biodiversity and minimising pollution in urban and rural areas.

Presumption in Favour of Sustainable Development

A.28 The principles of 'sustainable development' are central to the planning system. The NPPF (paragraphs 11-16) sets out what is meant by the 'presumption in

favour of sustainable development' and recommends that Policies in the Local Plan should follow this presumption.

A.29 The Framework recognises that sustainable development is about change for the better. It is about positive growth, making economic, environmental and social progress for this and future generations. To achieve sustainable development, economic, social and environmental gains should be sought jointly. They are mutually dependent.

A.30 In line with Government policy advice, the Council has adopted a positive approach in seeking to meet the objectively assessed development needs of the District. The policies in the Local Plan provide a clear framework to guide development that creates positive, sustainable growth, therefore following the presumption in favour of sustainable development, enabling proposals that accord with the Plan objectives to be approved without delay. This policy is therefore at the heart of decision making when assessing planning applications.

A.31 There may be instances where the Plan is silent or in future years, policies become out of date. To enable the Council to continue to take a sustainably positive approach to decision making, the applicant will need to assist by submitting evidence to demonstrate how the benefits of the proposal outweigh any adverse impacts.

A.32 The challenge here is to reconcile the need to deliver sufficient jobs and homes, supported by appropriate infrastructure to meet Cherwell's needs, whilst conserving the natural and built environment, minimising the need to travel and addressing climate change.

Policy PSD 1: Presumption in Favour of Sustainable Development

When considering development proposals the Council will take a proactive approach to reflect the presumption in favour of sustainable development contained in the National Planning Policy Framework. The Council will always work proactively with applicants to jointly find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

Planning applications that accord with the policies in this Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise.

Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:

- any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or
- specific policies in the Framework indicate that development should be restricted.

improve the quality of the current housing stock, helping to secure better educational attainment, health and well-being and improved employment opportunities (see ‘Policy BSC 5: Area Renewal’).

B.92 In seeking to build sustainable communities the Council will support Town and Parish Councils and relevant Neighbourhood Forums in developing Neighbourhood Plans.

Policy BSC 1: District Wide Housing Distribution

B.93 The National Planning Policy Framework seeks to boost significantly the supply of housing and deliver a wide choice of high quality homes. It requires the Council to plan for at least 15 years of housing delivery, to meet the full, objectively assessed needs for market and affordable housing, and to maintain a five year supply of deliverable sites with a buffer to ensure choice and competition in the market for land.



B.94 The Council is committed to meeting housing needs and accelerating delivery. Cherwell’s housing needs are identified in the Oxfordshire Strategic Housing Market Assessment (SHMA) 2014. The SHMA identifies a need for 1,140 dwellings per annum equating to 22,800 dwellings from 2011 to 2031. The SHMA analysis includes an assessment of housing need based on demographic trends having regard to past

shortfalls in housing delivery to 2011, consideration of ‘committed economic growth’, modelling of the level of housing provision that might be required to meet affordable need in full and wider evidence of market signals. Paragraph 9.58 of the SHMA states “For Cherwell District the evidence indicates a need for 1,142 dwellings per annum

(2011-2031) to support the Strategic Economic Plan. This is based on supporting Committed Economic Growth..."

B.95 Cherwell District Council will continue to work under the 'Duty to Co-operate' with all other Oxfordshire Local Authorities on an on-going basis to address the objectively assessed need for housing across the Oxfordshire Housing Market Area and to meet joint commitments such as the Oxford and Oxfordshire City Deal (2014). As a first step Cherwell District Council has sought to accommodate the housing need for Cherwell District in full in the Cherwell Local Plan. Cherwell District Council recognises that Oxford may not be able to accommodate the whole of its new housing requirement for the 2011-2031 period within its administrative boundary. The urban capacity of Oxford is as yet unconfirmed. Cherwell District Council will continue to work jointly and proactively with the Oxfordshire local authorities and through the Oxfordshire Growth Board to assess all reasonable spatial options, including the release of brownfield land, the potential for a new settlement and a full strategic review of the boundaries of the Oxford Green Belt. These issues are not for Cherwell to consider in isolation. These options will need to be undertaken in accordance with national policy, national guidance, the Strategic Environmental Assessment (SEA) regulations, and the Habitats Regulations Assessment (HRA) to establish how and where any unmet need might best be accommodated within the Oxfordshire Housing Market Area. Joint work will need to comprehensively consider how spatial options could be supported by necessary infrastructure to ensure an integrated approach to the delivery of housing, jobs and services. Full public consultation will be central to a 'sound' process and outcome. If this joint work reveals that Cherwell and other Districts need to meet additional need

for Oxford, this will trigger a partial review of the Local Plan, to be completed within two years of adoption, and taking the form of the preparation of a separate Development Plan Document for that part of the unmet need to be accommodated in the Cherwell District. The Council will engage in joint working on supporting technical work such as countywide Sustainability Appraisal as required to support the identification of a sustainable approach to meeting agreed, unmet needs.

B.96 The Council is committed to meeting the District's objectively assessed needs and, as described above, to working with partner authorities (including the Oxfordshire Growth Board) to determine how any other unmet needs arising from the SHMA can be sustainably accommodated within the Oxfordshire Housing Market Area. The housing strategy of this Local Plan seeks to deliver growth in accordance with the NPPF's Core Planning Principles including:

- Providing a positive vision for the future of Cherwell: a strategic growth and investment approach to the towns; an enlarged settlement in the centre of the District, further development at the villages to sustain them.
- Proactively driving and supporting sustainable economic development by meeting the SHMA's Committed Economic Growth scenario.
- Seeking to secure high quality design and a good standard of amenity by developing new neighbourhoods and achieving regeneration and redevelopment of key sites.
- Taking account of the different roles and character of Cherwell's places by promoting the vitality of Bicester, Banbury and Kidlington and their ability

to serve their hinterlands, protecting the Oxford Green Belt and concentrating development in sustainable rural locations to protect the intrinsic character and beauty of the countryside and to support thriving rural communities.

- Encouraging the effective re-use of existing land and buildings and bring forward sites that contain land of lesser environmental value such as at Graven Hill (Bicester 2), Canalside (Banbury 1), Bolton Road Development Area (Banbury 8), Higham Way (Banbury 19) and at the Former RAF Upper Heyford (Villages 5).
- Promoting strategic, mixed use developments conserving heritage assets in a manner appropriate to their significance such as those of national importance at Former RAF Upper Heyford, actively encouraging wildlife potential such as at South East Bicester (Bicester 12) and Gavray Drive (Bicester 13), and making the fullest possible use of public transport, walking and cycling and supporting community well-being such as at the North West Bicester Eco-Town (Bicester 1).

B.97 In total, the Plan provides for five strategic development sites at Bicester in addition to the on-going construction of an urban extension at South West Bicester (Kingsmere) and a committed site at

Talisman Road. It provides for 10 strategic development sites at Banbury, also in addition to an on-going urban extension at Bankside and committed sites at West of Warwick Road and Southam Road. The Plan makes allowances for non-strategic urban and rural sites in sustainable locations and includes realistic and reliable windfall allowances for (previously developed) sites of less than 10 dwellings. Development at villages will be considered against Policy Villages 1: Village Categorisation, Policy Villages 2: Distributing Growth Across the Rural Areas and Policy Villages 3: Rural Exception Sites.

B.98 The Plan supports the objectives of the Council's Housing Strategy 2012-2017 to increase the supply of homes and to improve access to housing. It provides for new affordable homes for those in most housing need and seeks to ensure the opportunities for home ownership are widened. The Plan aims to extend choice, to provide high quality homes and development, and to secure a mix of house types, size and tenure that meets housing need. This includes meeting the requirements of an ageing population through the provision of extra care, supported and sheltered housing and providing new forms of access such as community self-build or self-finish housing.

B.99 Overall housing delivery from 2011 to 2031 will be as set out in the policy below. Further delivery will be seen at the North West Bicester site (Policy Bicester 1) beyond 2031 but the Plan does not preclude earlier or faster delivery.

Policy BSC 1: District Wide Housing Distribution

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. Housing will be delivered in accordance with the requirements set out below:

	Bicester	Banbury	Rest of District	Totals
Completions	365	213	528	1,106
Permissions (10+)	1,934	2,346	1,760	6,040
Allocations	7,726	4,344	2,350	14,420
Windfalls (<10)	104	416	754	1,274
Totals	10,129	7,319	5,392	22,840

Policy BSC2: The Effective and Efficient Use of Land – Brownfield Land and Housing Density

B.100 Managing the use of previously developed land is important in maintaining the appearance of our towns and villages and to the well-being of our communities. It can also provide opportunities for enhancing biodiversity. This means ensuring that land and buildings earmarked for development are not underused and that we make the most of vacant and derelict land and buildings.

B.101 The Plan seeks to secure the redevelopment of a number of major previously developed sites comprising Banbury Canalside (Policy Banbury 1), Bolton Road and Spiceball in Banbury town centre (Policies Banbury 8 & 9), Higham Way near the railway station in Banbury (Policy

Banbury 19), the MOD site at Graven Hill, Bicester (Policy Bicester 2), a Phase 2 to Bicester town centre redevelopment (Policy Bicester 6) and the former RAF Upper Heyford airbase (Policy Villages 5). The plan also includes a windfall allowance for small previously developed sites. Therefore, although the Plan allocates large areas of greenfield land to meet the District's development needs, the Council will strive to ensure that these important 'brownfield' schemes are delivered.

B.102 It is also important to make efficient use of land. In general, new housing should be provided at a net density of at least 30 dwellings per hectare. However, the density of housing development will be expected to reflect the character and appearance of individual localities and development principles that are appropriate to the individual circumstances of sites.

B.103 In considering development on smaller sites, the effective use of previously developed land within urban areas, and within those villages identified by the Local Plan as

being suitable places for additional residential development (Policy Villages 1), will particularly be encouraged provided that it is not of high environmental value.

Policy BSC 2: The Effective and Efficient Use of Land - Brownfield Land and Housing Density

Housing development in Cherwell will be expected to make effective and efficient use of land. The Council will encourage the re-use of previously developed land in sustainable locations. New housing should be provided on net developable areas at a density of at least 30 dwellings per hectare unless there are justifiable planning reasons for lower density development.

Policy BSC3: Affordable Housing

B.104 Cherwell has a high level of need for affordable housing which is defined by the Government in the NPPF as comprising social rented, affordable rented and 'intermediate' housing (such as shared ownership) provided to eligible households whose needs are not met by the market.



B.105 The Oxfordshire Strategic Housing Market Assessment (SHMA) 2014 has identified a net need of 407 affordable homes per year. This is calculated by taking into account the backlog need, need from newly

forming households, existing households falling into need and the supply of affordable housing. The SHMA points out that its needs model is based on evidence at a point in time and does not, for example, take account of the role which the Private Rented Sector plays in meeting the needs of households which require affordable housing. The Council's previous 'Strategic Housing Market Assessment Review and Update 2012' concluded that the net housing need based on the ability to afford private rents is 186 homes per year or 831 homes per year based on the ability to buy an entry level property. By applying a social/affordable rent split based on affordability, the overall need was identified as being in the region of 300 homes per year. Assessing need is complex and the level of need will fluctuate. However, the need to provide affordable housing at viable levels is clear.

B.106 The Council's Housing Strategy 2012-17 takes into account Government policy on the provision of affordable housing and the Homes and Community Agency's current funding regime. The additional value

Should the promoters of development consider that individual proposals would be unviable with the above requirements, 'open-book' financial analysis of proposed developments will be expected so that an in house economic viability assessment can be undertaken. Where it is agreed that an external economic viability assessment is required, the cost shall be met by the promoter.

Where development is demonstrated to be unviable with the above requirements, further negotiations will take place. These negotiations will include consideration of: the mix and type of housing, the split between social rented and intermediate housing, the availability of social housing grant/funding and the percentage of affordable housing to be provided.

The Council will require active consideration of proposals for community self-build or self-finish housing in particular where it is to a high design standard and will result in suitable empty properties being brought into residential use. Self-build and Self-finish should contribute towards meeting the need for affordable housing.

Affordable Housing will also be delivered through Policy Villages 3: Rural Exception Sites.

Policy BSC4: Housing Mix

B.120 The Local Plan aims not only to increase supply of housing but to encourage a mix that can help improve the functioning of the housing market system, make it more fluid, and enable households to more easily find and move to housing which they can afford and which better suits their circumstances.



B.121 There is need to provide a mix of housing in Cherwell that reflects the needs of an ageing population, a growth in smaller households and which meets the requirements for family housing. The mix of housing needs to enable movement through the market from one house type to another

as the needs of households change. This movement frees up housing which might otherwise be unavailable.

B.I22 The Oxfordshire Strategic Housing Market Assessment(SHMA 2014) provides conclusions on a strategic mix of housing for

Oxfordshire over the next 20 years. The SHMA analyses the types and sizes of accommodation occupied by different ages of residents, projected changes in the population and estimates of future need and demand for different sizes of homes. The SHMA's conclusions are shown below:

SHMA Table 67: Conclusions regarding Mix of Homes, HMA Level

	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%

B.I23 The SHMA does advise, however, that at an individual local authority level, there is a greater need for 3-bed properties in Cherwell and that the overall mix identified is focused more towards smaller properties than the existing mix of homes in Oxfordshire.

B.I24 The SHMA also advises that in applying policies for housing mix to individual development sites, regard should be had to "...the nature of the development site and character of the area, and to the up-to-date evidence of need as well as the existing mix and turnover of properties at the local level" (paragraph 7.40).

B.I25 The need for housing for those with care needs is also significant. 'Extra care' housing in particular will be important in meeting the housing needs of an older population across all tenures. Extra care housing comprises self-contained accommodation for older and disabled people which enables independent living by providing a range of support facilities on the premises and 24-hour care services. It can help people live longer in their own homes either securely alone or with partners or

friends. It meets a need between traditional sheltered housing and residential care and can be purpose-built or adapted accommodation. People have their own front doors but also have the opportunity to benefit from communal facilities. Extra care can also contribute in achieving more social cohesion by providing an opportunity for community living and a better mix of housing within residential areas.

B.I26 The NPPF recognises that a key driver of change in the housing market over the next 20 years will be the growth in the population of elderly people. Evidence produced for the Council's former Housing Strategy for Older People (2010-2015) identified a requirement for an additional 788 units from 2010 to 2026 to meet extra care and 'enhanced sheltered' needs. Extra care remains an important housing option in the District Housing Strategy 2012-2017. The SHMA also highlights that an ageing population and higher levels of disability and health problems amongst older people will mean an increasing demand for specialist housing.

B.127 An assessment of the development viability of extra care housing (2011) concluded that the inclusion of extra care housing within mixed tenure schemes will not significantly impact on the viability and

deliverability of housing. Consultation with providers suggests that schemes will need to comprise at least 45 dwellings to make the provision of support and care facilities operationally viable.

Policy BSC 4: Housing Mix

New residential development will be expected to provide a mix of homes to meet current and expected future requirements in the interests of meeting housing need and creating socially mixed and inclusive communities.

The mix of housing will be negotiated having regard to the Council's most up-to-date evidence on housing need and available evidence from developers on local market conditions.

Housing sites of at least 400 dwellings will be expected to provide a minimum of 45 self-contained extra care dwellings as part of the overall mix. Should it be agreed with the Council that extra care housing would not be desirable in a particular location, an equivalent amount of alternative specialist housing (use class C3) for older people will be required.

Elsewhere, opportunities for the provision of extra care, specialist housing for older and/or disabled people and those with mental health needs and other supported housing for those with specific living needs will be encouraged in suitable locations close to services and facilities. All proposals will be expected to provide affordable housing in accordance with Policy BSC 3: Affordable Housing.

Policy BSC 5: Area Renewal

B.128 Helping to create opportunity for all and positively renew and regenerate areas with challenging social conditions in parts of the District is important to the delivery of the objectives of the Local Plan.



B.129 The 'Brighter Futures in Banbury' initiative brings together key agencies to address issues of deprivation in the town and

B.185 An Energy Statement will be required for proposals for major residential developments (over 10 dwellings), and all non-residential development to demonstrate how the energy hierarchy has been applied. The Energy Statement can form a standalone document or be part of the Design and Access Statement. The Council will produce a template for use in preparing energy statements.

B.186 Carbon emissions reductions can be achieved through a range of “allowable solutions”; measures which secure carbon savings off site. These have yet to be defined by the government but could potentially include investment in off site low and zero carbon technologies. The concept is

relatively new and is seen as a way to enable developments to become carbon neutral where it is not possible to deal with all carbon emissions through on site measures. It will not always be cost effective or technically feasible to meet the zero carbon standard through on site measures and the government is therefore proposing that the zero carbon standard could be achieved by mitigating the remaining emissions off-site through the use of allowable solutions. The Council will support the implementation of the national approach to allowable solutions once defined and any additional implementation guidance required at a local level will be set out in the Local Plan Part 2 and the Sustainable Buildings in Cherwell SPD’.

Policy ESD 2: Energy Hierarchy and Allowable Solutions

In seeking to achieve carbon emissions reductions, we 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.

B.187 The detailed application of the energy hierarchy in assessing proposals will be explained in the Sustainable Buildings in Cherwell SPD.

B.188 Policies on each element of the energy hierarchy are set out in order below.

Policy ESD 3: Sustainable Construction

B.189 Policy ESD 3 sets out the Council’s approach to implementing the first step of the energy hierarchy in Policy ESD 2 specifically, its encouragement for the use of sustainable design and construction measures.



B.190 The delivery of sustainable development is a fundamental theme of the Local Plan and the Council places a high priority on the achievement of sustainable construction.

B.191 The expectations in Policy ESD 3 will be applied flexibly. The onus will be on the developer to demonstrate (with robust

evidence) why the requirements cannot be met, for example where the application of the policy would conflict with other policy objectives, or where it can be satisfactorily shown that implementing the standards would not be feasible or financially viable, undermining delivery of the development. Negotiations will take place to ensure that sustainable construction is achieved as far as possible and we encourage discussion with the Council in the early stages of any development proposal. This policy will be subject to monitoring and review to ensure the standards and guidance remain appropriate and relevant. Any new national standards will need to be reflected in revisions to the local policy.

B.192 Sustainable design and construction issues will be considered and illustrated in more local detail in the Sustainable Buildings in Cherwell SPD.

Policy ESD 3: Sustainable Construction

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.

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.

All new non-residential development will be expected to meet at least BREEAM 'Very Good' with immediate effect, subject to review over the plan period to ensure the target remains relevant. The demonstration of the achievement of this standard should be set out in the Energy Statement.

The strategic site allocations identified in this Local Plan are expected to provide contributions to carbon emissions reductions and to wider sustainability.

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.**

Should the promoters of development consider that individual proposals would be unviable with the above requirements, 'open-book' financial analysis of proposed developments will be expected so that an independent economic viability assessment can be undertaken. Where it is agreed that an economic viability assessment is required, the cost shall be met by the promoter.

Policy ESD 4: Decentralised Energy Systems

B.193 This policy sets out the Council's support for decentralised energy systems, the second step of the energy hierarchy in 'Policy ESD 2: Energy Hierarchy'.

However the current groundwater recharge could be maintained using Sustainable Drainage Systems, including porous surfacing, which maintain infiltration of groundwater without exacerbating flood risk (see Policy ESD 7).

- If new development is situated next to watercourses that flow into the River Thames upstream of the SAC, it is possible that there could be a decrease in water quality flowing through the SAC during the construction and the operation of development. This could

potentially alter or prevent the nutrient enrichment of the habitats and species that the SAC supports, leading to degradation or loss.

B.232 Policy ESD 9 aims to prevent any obstruction of groundwater flows and to preserve water quality, in order to maintain the stability of the hydrological regime within the SAC and therefore its integrity as a site of international importance. The policy will be applied to development proposals likely to impact on groundwater flows or watercourses that flow into the River Thames upstream of the SAC.

Policy ESD 9: Protection of the Oxford Meadows SAC

Developers will be required to demonstrate that:

- During construction of the development there will be no adverse effects on the water quality or quantity of any adjacent or nearby watercourse**
- During operation of the development any run-off of water into adjacent or surrounding watercourses will meet Environmental Quality Standards (and where necessary oil interceptors, silt traps and Sustainable Drainage Systems will be included)**
- New development will not significantly alter groundwater flows and that the hydrological regime of the Oxford Meadows SAC is maintained in terms of water quantity and quality**
- Run-off rates of surface water from the development will be maintained at greenfield rates.**

Policy ESD 10: Protection and Enhancement of Biodiversity and the Natural Environment

B.233 Development proposals likely to affect a site of international ecological importance will need to be accompanied by a thorough Habitats Regulations Assessment of the potential effects of the development on that site of international importance, to enable

the Council to determine whether the development would result in significant adverse effects on the integrity of the site. Any development that is unable to demonstrate that it would not have a significant adverse effect upon the integrity of a European site, having taken account of proposed mitigation, will be refused. This is in accordance with the precautionary principle enshrined in the Habitats Directive.

Where there are imperative reasons of over-riding public interest and the Council is unable to conclude no adverse effect on the integrity of the SAC, the authority will

notify the Secretary of State to allow the application to be called in for determination. In these situations compensatory measures to protect the site must be put in place.



B.234 Sites of national importance comprise Sites of Special Scientific Interest (SSSIs) and National Nature Reserves. Cherwell District has 18 SSSIs but does not contain any National Nature Reserves.

B.235 Sites of regional/local importance comprise Local Geological Sites (LGSs), Local Nature Reserves (LNRs), non-statutory nature reserves and other sites of importance for nature conservation including

Local Wildlife Sites (LWSs- formerly known as County Wildlife Sites), ancient woodland, aged or veteran trees and UK Biodiversity Action Plan (BAP) Priority Habitats (habitats of principal importance for the conservation of biodiversity under Section 41 of the NERC Act). Cherwell contains 13 LGSs, 3 LNRs, 83 Local Wildlife sites (completely or partly within the District), 16 proposed LWSs and 8 proposed LWS extensions (as of August 2013). The sites are indicated on the

biodiversity map at Appendix 5: Maps, but it must be acknowledged that the number and location of sites changes over time as surveys and re-surveys take place. A living list of Local Wildlife Sites and associated maps are available at <http://www.tverc.org>. Sites of regional/local importance also include the habitats of those species of principal importance for biodiversity (as identified in Section 41 of the NERC Act).

B.236 It is not just designated sites that are of importance to the biodiversity resource of the District. Areas adjacent to designated sites can be of value as they can form part of the overall ecological unit and may provide important linkages. Also landscape features such as hedgerows, woods, trees, rivers and riverbanks, ponds and floodplains can be of importance both in urban and rural areas, and often form wildlife corridors and stepping stones. Similarly it is not just greenfield sites that can be of value; previously developed land can also make an important contribution to biodiversity. Some development can remediate contaminated land which may be having an adverse impact on ecology. It is important that any features of value are identified early in the planning process so that adequate measures can be taken to secure their protection. Developers will be expected to incorporate and enhance such features within a site wherever possible and adequate measures should be taken to protect them from damage during construction. Networks of habitats will be protected from development and where possible strengthened by it.

B.237 Relevant habitat and species surveys and associated reports will be required to accompany planning applications which may affect a site of known biodiversity value or the biodiversity/natural environment of the local area. A biodiversity survey and report will also be required where it is likely that previously unrecorded biodiversity interest may be present which could be affected by the development. All developments around Bicester will require surveys carried out for the brown hairstreak butterfly. Surveys should include consideration of the site's value as a wildlife corridor and the contribution it makes to ecological networks. In addition to identifying biodiversity impacts, biodiversity surveys and reports should identify opportunities to deliver biodiversity enhancements.

B.238 There are a number of features which can be incorporated into developments to encourage biodiversity including green roofs and walls, SUDs, using native and locally characteristic species in landscaping schemes, using landscaping to link up existing areas supporting biodiversity and including features such as bird and bat boxes. The Council is compiling further guidance on the incorporation of features to encourage biodiversity which will form part of the Sustainable Buildings in Cherwell SPD.

B.239 Consideration will be given to the introduction of a tariff based approach to securing biodiversity improvement through development. Further information on the use of planning obligations to secure contributions from development towards biodiversity will be contained in the final Developer Contributions SPD.

Policy ESD 10: Protection and Enhancement of Biodiversity and the Natural Environment

Protection and enhancement of biodiversity and the natural environment will be achieved by the following:

- In considering proposals for development, a net gain in biodiversity will be sought by protecting, managing, enhancing and extending existing resources, and by creating new resources
- The protection of trees will be encouraged, with an aim to increase the number of trees in the District
- The reuse of soils will be sought
- If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for, then development will not be permitted.
- Development which would result in damage to or loss of a site of international value will be subject to the Habitats Regulations Assessment process and will not be permitted unless it can be demonstrated that there will be no likely significant effects on the international site or that effects can be mitigated
- Development which would result in damage to or loss of a site of biodiversity or geological value of national importance will not be permitted unless the benefits of the development clearly outweigh the harm it would cause to the site and the wider national network of SSSIs, and the loss can be mitigated to achieve a net gain in biodiversity/geodiversity
- Development which would result in damage to or loss of a site of biodiversity or geological value of regional or local importance including habitats of species of principal importance for biodiversity will not be permitted unless the benefits of the development clearly outweigh the harm it would cause to the site, and the loss can be mitigated to achieve a net gain in biodiversity/geodiversity
- Development proposals will be expected to incorporate features to encourage biodiversity, and retain and where possible enhance existing features of nature conservation value within the site. Existing ecological networks should be identified and maintained to avoid habitat fragmentation, and ecological corridors should form an essential component of green infrastructure provision in association with new development to ensure habitat connectivity
- Relevant habitat and species surveys and associated reports will be required to accompany planning applications which may affect a site, habitat or species of known or potential ecological value

- Air quality assessments will also be required for development proposals that would be likely to have a significantly adverse impact on biodiversity by generating an increase in air pollution
- Planning conditions/obligations will be used to secure net gains in biodiversity by helping to deliver Biodiversity Action Plan targets and/or meeting the aims of Conservation Target Areas. Developments for which these are the principal aims will be viewed favourably
- A monitoring and management plan will be required for biodiversity features on site to ensure their long term suitable management.

Policy ESD 11: Conservation Target Areas

B.240 Conservation Target Areas in Oxfordshire have been mapped by the Thames Valley Environmental Records Centre (TVERC) in consultation with local authorities and nature conservation organisations in Oxfordshire. The Target Areas have been identified to focus work to restore biodiversity at a landscape scale through the maintenance, restoration and creation of UK BAP priority habitats, and this is their principle aim. They therefore have a major role to play in achieving Strategic Objective 15 (Section A: Strategy for Development in Cherwell). Addressing habitat fragmentation through the linking of sites to form strategic ecological networks can help species adapt to the impact of climate change, and therefore Conservation Target Areas can also contribute to the achievement of Strategic Objective 11. Conservation Target Areas represent the areas of greatest opportunity for strategic biodiversity improvement in the District and as such development will be expected to contribute to the achievement of the aims of the target areas through avoiding habitat fragmentation and enhancing biodiversity.

B.241 Ten Conservation Target Areas lie wholly or partly within Cherwell District. The boundaries of the Conservation Target Areas are indicated on the Policies Map (Appendix 5: Maps).

B.242 General targets for maintenance, restoration and creation of habitats have been set for each area, to be achieved through a combination of biodiversity project work undertaken by a range of organisations, agri-environment schemes and biodiversity enhancements secured in association with development. These targets are in the process of being made more specific in terms of the amount of each habitat type to be secured within each Conservation Target Area (see Wild Oxfordshire's website <http://wildoxfordshire.org.uk/biodiversityconservation-target-areas>).

Habitat improvement within each area will contribute towards achieving County targets, which in turn will contribute towards regional biodiversity targets identified by the South East England Biodiversity Forum. A lead partner has been appointed for several of the Conservation Target Areas to co-ordinate action.

B.243 Biodiversity enhancements sought in association with development could include the restoration or maintenance of habitats through appropriate management, new habitat creation to link fragmented habitats, or a financial contribution towards

- incorporate designs and landscaping consistent with the above, respecting the local settlement pattern and building style
- be designed to respect local building styles and materials
- incorporate appropriate sustainability elements and designs
- have regard to the impact on tranquillity, including dark skies
- not have an adverse impact on the local community amenities and services and access to these
- protect, or where possible enhance, landscape and biodiversity
- be in accordance with a more sustainable pattern of development, reducing dependence on car travel.

Policy ESD 12: Cotswold Area of Outstanding Natural Beauty (AONB)

High priority will be given to the protection and enhancement of the Cotswolds AONB and the Council will seek to protect the AONB and its setting from potentially damaging and inappropriate development. The Cotswolds AONB Management Plan will be used as supplementary guidance in decision making relevant to the AONB.

Development proposals within the AONB will only be permitted if they are small scale, sustainably located and designed, and would not conflict with the aim of conserving and enhancing the natural beauty of the area.

Policy ESD 13: Local Landscape Protection and Enhancement

B.248 The Cherwell Local Plan 1996 identified Areas of High Landscape Value - land of particular environmental quality - where the Council would seek to conserve and enhance the environment. This Local Plan adopts a character-based approach to seek to conserve and enhance the countryside and landscape character of the whole District, and so Areas of High Landscape Value are not proposed to be retained. Policy ESD 13 therefore seeks to conserve and enhance the distinctive and highly valued local character of the entire District. The Council will use the CPRE's

Tranquillity Map of Oxfordshire available at <http://www.cpre.org.uk> as a guide in assessing areas of tranquillity. Further guidance will be contained within the Local Plan Part 2.

Examples of landscape types

Landscape Types

	Clay Vale
	Farmland Plateau
	Farmland Slopes and Valley Sides
	River Meadowlands
	Upstanding Village Farmlands
	Wooded Pasture Valleys and Slopes

B.249 Opportunities for landscape enhancement can also be provided by land in the Council's ownership, and on other land by agreement.

B.250 The relationship between the District's towns and the adjoining countryside and the avoidance of an abrupt transition from built development to open farmland requires special attention to the landscaping of existing and proposed development. This interface is important in determining the relationship between the urban areas and on the character of the countryside. Where new development will extend the built up limits of the towns the Council will seek a masterplan and well-designed approach to the urban edge. This could incorporate the enhancement of existing hedgerows and woodlands and new areas of woodland planting and hedgerows to be incorporated as part of the development, to ensure the satisfactory transition between town and country. These considerations can equally be applied where extensions to villages are required. Landscape mitigation for the proposed strategic sites will be negotiated on a site by site basis.

B.251 In order to understand the local landscape character of Cherwell a Landscape Assessment was undertaken in 1995. The findings of this assessment informed the Non Statutory Cherwell Local Plan policy and the Countryside Design Summary Supplementary Planning Guidance. These documents identified four distinct character areas - the 'Cherwell Valley', 'Ironstone Downs', 'Ploughley Limestone Plateau' and 'Clay Vale of Otmoor'. The guidance states how development can complement the most important aspects of the character of that part of the District. More recently the Oxfordshire Wildlife and Landscape Study

(OWLS) looked in detail at the landscape types across the District as well as the biodiversity resource. It identifies the 'forces for change' in a particular location and includes landscape/biodiversity strategies which set guidelines for how developments can contribute towards landscape character. Further landscape assessment work has been undertaken to inform the Local Plan and the Masterplans being prepared for Bicester and Banbury (see Appendix 3: Evidence Base).

B.252 One of the most important elements of the landscape which can add to the character and identity of an area are natural landscape features. Such features include Muswell Hill, Crouch Hill, Madmarston Hill, the River Cherwell and Otmoor, which all make those areas distinct and create a sense of place. Many form local landmarks valued by the local communities. The Council's Landscape Evidence Base documents identify the key landform and landscape features of value which include the following features around Banbury and Bicester:

- the open and agricultural setting and identity of the outlying villages surrounding Banbury and Bicester, many with locally distinctive historic cores
- ironstone ridges and valleys
- the historic villages and parkland of Hanwell and Wroxton
- Broughton Castle and Grade II Registered Park
- Crouch Hill: an important landmark overlooking Banbury and the surrounding area
- the landscape to the east of the motorway at Banbury which retains a distinct historic pattern

- Salt Way and its setting
- the Sor Brook Valley
- the setting of the Oxford Canal and River Cherwell corridor
- specific features at Bicester noted for their value include those showing notable 'time depth' including Former RAF Bicester, Wretchwick deserted medieval village, Bignell Park and the Roman roads
- Graven Hill and Blackthorn Hill which contrast with the relatively flat surrounding landform
- the River Ray floodplains.

B.253 The Council will seek to retain woodlands, trees, hedges, ponds, walls and any other features which are important to the character or appearance of the local

landscape as a result of their ecological, historic or amenity value. Proposals which would result in the loss of such features will not be permitted unless their loss can be justified by appropriate mitigation and/or compensatory measures to the satisfaction of the Council.

B.254 In order that development conserves and enhances the character of the countryside, the Council will carefully control the type, scale and design of development, including the materials used, taking into account the advice contained in the Council's Countryside Design Summary SPG and the OWLS.

B.255 In addition to this policy, many villages have conservation areas and in considering development proposals within or adjacent to them, special attention will be given to the preservation or enhancement of their character and appearance under 'Policy ESD 15: The Character of the Built and Historic Environment'.

Policy ESD 13: Local Landscape Protection and Enhancement

Opportunities will be sought to secure the enhancement of the character and appearance of the landscape, particularly in urban fringe locations, through the restoration, management or enhancement of existing landscapes, features or habitats and where appropriate the creation of new ones, including the planting of woodlands, trees and hedgerows.

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 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**
- **Impact on areas judged to have a high level of tranquillity**

- Harm the setting of settlements, buildings, structures or other landmark features, or
- Harm the historic value of the landscape.

Development proposals should have regard to the information and advice contained in the Council's Countryside Design Summary Supplementary Planning Guidance, and the Oxfordshire Wildlife and Landscape Study (OWLS), and be accompanied by a landscape assessment where appropriate.

Policy ESD 14: Oxford Green Belt

B.256 Part of the District falls within the Oxford Green Belt. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the most important attribute of Green Belts is their openness. The Oxford Green Belt was designated to restrain development

pressures which could damage the character of Oxford City and its heritage through increased activity, traffic and the outward sprawl of the urban area. Similarly, the character of Oxford in a rural setting cannot be maintained without the protection of the spatial relationship of Oxford with nearby settlements and the maintenance of the character of the intervening countryside.

Policy Villages 1: Village Categorisation

C.254 Policy Villages 1 provides a categorisation of villages to guide the consideration of small-scale proposals for residential development within the built-up limits of settlements. Village categorisation helps understand which villages are in principle best placed to sustain different levels of residential development. The Policy ensures that unanticipated development within the built-up limits of a village is of an appropriate scale for that village, is supported by services and facilities and does not unnecessarily exacerbate travel patterns that are overly reliant on the private car and which incrementally have environmental consequences. Policy Villages 1 seeks to manage small scale development proposals (typically but not exclusively for less than 10 dwellings) which come forward within the built-up limits of villages. It also informs Policy Villages 2 which provides a rural allocation for sites of 10 or more dwellings at the most sustainable category A villages and which will guide preparation of both the Local Plan Part 2 and Neighbourhood Plans.



C.255 Villages have been categorised based on the following criteria:

- population size
- the number and range of services and facilities within the village (shops, schools, pubs, etc.)
- whether there are any significant known issues in a village that could be materially assisted by an increase in housing (for example to maintain pupil numbers at a primary school)
- the accessibility (travel time and distance) of the village to an urban area by private car and public transport (including an assessment of any network constraints)
- accessibility of the village in terms of walking and cycling
- local employment opportunities.

C.256 Survey work was previously undertaken to inform village categorisation and this was supplemented by 'the Cherwell Rural Areas Integrated Transport & Land Use Study' (CRAITLUS) which was produced in association with Oxfordshire County Council. The survey work was updated in 2014.

C.257 The principle of categorising villages is well established within the District, with this approach being taken in both the Cherwell Local Plan 1996 and the Non-Statutory Cherwell Local Plan in 2004. It is considered that this approach is still appropriate.

C.258 This Local Plan has also considered the issue of village clustering. Some villages, which may not necessarily have many services and facilities of their own, are geographically close to villages which do have services and facilities. People living in the

rural areas may use services and facilities in other nearby villages. Those larger villages with services and facilities (the ‘service centre’ villages) in combination with the smaller “satellite” villages can be considered to form a functional “cluster”. Clustering will allow for:

- the support of community facilities (such as shops) in service centres, by locating new development and therefore people/customers close to as well as within service centre villages
- small sites to come forward for development in satellite villages where sites in service centres may be limited

- the reduction in length of car journeys in the rural areas (i.e. between satellite villages and service centres)
- where appropriate, the potential for developer contributions or other mechanism to support the delivery of infrastructure and services to be applied to needs in any village in a cluster.

C.259 It is not proposed that clustering forms part of the development strategy in ‘Policy Villages 2: Distributing Growth Across the Rural Areas’ as the services and facilities in most satellite villages are too limited to sustainably accommodate the development of larger allocated sites. However, it is considered to be a role for satellite (Category B) villages to accommodate minor development which is set out in ‘Policy Villages 1: Village Categorisation’ below.

C.260 The following categorisation will be used to assess residential proposals that come forward within villages.

Policy Villages 1: Village Categorisation

Proposals for residential development within the built-up limits of villages (including Kidlington) will be considered having regard to the categorisation below. Only Category A (Service Centres) and Category B (Satellite Villages) will be considered to be suitable for minor development in addition to infilling and conversions.

Category	Villages by Category	Type of Development
A	Service Villages Adderbury, Ambrosden, Arncott, Begbroke, Bletchingdon (*), Bloxham, Bodicote, Chesterton, Cropredy, Deddington, Finmere, Fringford, Fritwell, Hook Norton, Kidlington,	Minor Development Infilling Conversions

Category	Villages by Category	Type of Development
	Kirtlington, Launton, Milcombe, Sibford Ferris/Sibford Gower, Steeple Aston, Weston-on-the-Green(*), Wroxton, Yarnton	
B	Satellite Villages Blackthorn, Claydon, Clifton, Great Bourton, Hempton, Lower Heyford, Middle Aston, Milton, Mollington, South Newington, and Wardington.	Minor Development Infilling Conversions
C	All other villages	Infilling Conversions
(*) Denotes villages partly within and partly outside the Green Belt. In those parts that lie within the Green Belt, only infilling and conversions will be permitted.		

C.261 There is a need for Cherwell's villages to sustainably contribute towards meeting the housing requirements identified in Policy BSC1. Policy Villages I allows for the most sustainable villages to accommodate 'minor development' and all villages to accommodate infilling or conversions. The appropriate form of development will vary depending on the character of the village and development in the immediate locality. In all cases, 'Policy ESD 15: The Character of the Built and Historic Environment' will be applied in considering applications.

C.262 In assessing whether proposals constitute acceptable 'minor development', regard will be given to the following criteria:

- the size of the village and the level of service provision
- the site's context within the existing built environment
- whether it is in keeping with the character and form of the village
- its local landscape setting
- careful consideration of the appropriate scale of development, particularly in Category B (satellite) villages.

C.263 In considering the scope of new residential development within the built-up limits of Kidlington, consideration will be given to its role as a larger service centre and its urban character, the functions that existing gaps and spaces perform and the quality of the built environment.

C.264 Infilling refers to the development of a small gap in an otherwise continuous built-up frontage. Not all infill gaps will be suitable for development. Many spaces in villages' streets are important and cannot be filled without detriment to their character. Such gaps may afford views out to the landscape or help to impart a spacious rural atmosphere to the village. This is particularly important in a loose knit village pattern where the spaces may be as important as the buildings.

C.265 Adderbury, Ambrosden, Arncott, Begbroke, Bletchingdon, Bloxham, Bodicote, Chesterton, Cropredy, Deddington, Finmere, Fringford, Fritwell, Hook Norton, Kidlington, Kirtlington, Launton, Milcombe, Sibford Ferris/Sibford Gower, Steeple Aston, Weston on the Green, Wroxton and Yarnton are Category A villages. The Category A villages which perform as "service centres" for the "satellite villages" (forming a "village cluster") shown in the table at paragraph C.260 are Adderbury, Ambrosden, Bloxham, Cropredy, Deddington and Steeple Aston.

C.266 The category B villages are satellite villages associated with a larger service centre. The satellite villages are: Blackthorn, Claydon, Clifton, Great Bourton, Hempton, Lower Heyford, Middle Aston, Milton, Mollington, South Newington, and Wardington. They do not 'score' highly enough in their own right to be included as category A villages but are considered to be appropriate for minor development because of the benefits of access to a service centre

within a village cluster. For example, Claydon, Great Bourton, Mollington and Wardington benefit from their relationship with Cropredy. As smaller settlements, the satellite villages have been given a separate 'B' Category as they would not be suitable for larger scale development provided for by Policy Villages 2.

C.267 All other villages are classified as Category C villages.

C.268 Appropriate infilling (and minor development for affordable housing) in these "satellite villages" may help to meet needs not only within the village itself but also the larger village with which it is clustered.

C.269 Policy Villages I applies to all villages in the District including those that are, in whole or in part, within the Green Belt. The general extent of, and policy for, the Green Belt is set out in 'Policy ESD 14: Oxford Green Belt' and on the Policies Map (Appendix 5: Maps). The villages of Kidlington, Yarnton and Begbroke (all "category A" villages) are "inset" villages within the Green Belt and therefore will not be covered by Green Belt policy. All other villages within the Green Belt, however, are "washed over" by Green Belt designation and Policy ESD 14 will apply in relation to whether development maintains the Green Belt's openness and does not conflict with the purposes of the Green Belt or harm its visual amenities. Policy ESD 14 will apply in the same way for those parts of Weston on the Green and Bletchingdon that lie within the Green Belt.

Policy Villages 2: Distributing Growth across the Rural Areas

C.270 The Local Plan must set out an approach for identifying the development of new sites for housing across the rural areas to meet local needs in sustainable locations

and to meet the strategic targets set in 'Policy BSC 1: District Wide Housing Distribution'.



C.271 The Housing Trajectory shows that the District already has a substantial housing supply from rural areas:

Completions (2011-2014):

DLO Caversfield	85
Rural Areas (including Kidlington) (10 or more dwellings)	247
Rural Areas including Kidlington (less than 10 dwellings)	196
Total	528

Planning Permissions at 31/3/14:

Former RAF Upper Heyford	761
DLO Caversfield	111
Rural Areas (including Kidlington) (10 or more dwellings)	888
Total	1760
<i>(excludes permissions for sites of less than 10 to avoid duplication with a future windfall allowance)</i>	

C.272 In the interests of meeting local housing need in rural areas, an allocation is also being made to enable the development of some new sites (for 10 or more dwellings) in the most sustainable locations. A further 750 dwellings will be developed in the rural areas including Kidlington. Sites for 10 or

more dwellings that have received planning permission after 31 March 2014 will contribute in meeting these requirements. Additionally, a realistic windfall allowance of 754 homes is identified for sites of less than

10 dwellings for the period (2014-2031). In total, some 5,392 homes will be delivered across the rural areas from 2011 to 2031.

Policy Villages 2: Distributing Growth across the Rural Areas

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.

Sites will be identified through the preparation of the Local Plan Part 2, through the preparation of Neighbourhood Plans where applicable, and through the determination of applications for planning permission.

In identifying and considering sites, particular regard will be given to the following criteria:

- **Whether the land has been previously developed land or is of lesser environmental value**
- **Whether significant adverse impact on heritage or 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 and 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**
- **Whether the development would have an adverse impact on flood risk.**

Cherwell

Local Plan



NOVEMBER
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2.75 The Council recognises that it will occasionally be necessary to permit the replacement of an unfit or substandard dwelling in the countryside. A strong presumption against the demolition of a listed building is embodied in planning law, and the number of instances where this might be justifiable in the plan area as a whole will be exceedingly rare. The protection of the character of the countryside will be a primary objective in all cases, and proposals for substantially larger and more conspicuous dwellings in the landscape will be resisted. Proposals for the replacement of a single dwelling by two or more new dwellings will also be resisted since their cumulative effect would threaten the fundamental objective of severely restricting new development in the countryside. Proposals for one-for-one replacement dwellings in the Green Belt will be considered under Policy H17 above.

NEW DWELLINGS IN THE COUNTRYSIDE

H18 PLANNING PERMISSION WILL ONLY BE GRANTED FOR THE CONSTRUCTION OF NEW DWELLINGS BEYOND THE BUILT-UP LIMITS OF SETTLEMENTS OTHER THAN THOSE IDENTIFIED UNDER POLICY H1 WHEN

- (i) IT IS ESSENTIAL FOR AGRICULTURE OR OTHER EXISTING UNDERTAKINGS, OR
- (ii) THE PROPOSAL MEETS THE CRITERIA SET OUT IN POLICY H6; AND
- (iii) THE PROPOSAL WOULD NOT CONFLICT WITH OTHER POLICIES IN THIS PLAN.

2.76 Policy H18 is a continuation of past policies and reflects Central Government advice. Its intention is to ensure that the countryside is protected from sporadic development whilst, at the same time, recognising the legitimate needs of agriculture and forestry.

2.77 'Essential' will normally be interpreted as a proven necessity for a worker to live at or very close to the site of their work ie it is necessary for the proper functioning of the enterprise for a new dwelling to be occupied by a worker in connection with it. Sufficient details should be provided to enable an assessment of the size, nature and viability of the existing or proposed enterprise together with details of the number and tenure of existing dwellings related to the holding or estate. Where there is any doubt that a dwelling is required for the proper functioning of an enterprise, or where a new business is being proposed, it will be necessary to supply adequate financial information to demonstrate that the proposals are sound. In particular the Council will wish to be satisfied that such need as might exist could not be reasonably secured in a nearby settlement.

2.78 When an essential need has been proven, the Council may still resist the erection of a new dwelling if the opportunity to convert an existing redundant building in compliance with policy H19, H20 or H21 exists on the land. The erection of a new dwelling will normally be expected to be of traditional design and be closely related to existing buildings in the interest of protecting the appearance and open character of the countryside.

2.79 All planning permissions for agricultural dwellings outside the villages will contain an agricultural-occupancy condition restricting their occupation to a person or persons employed or last employed in agriculture and their immediate dependants. Such conditions will only be removed if it can clearly be demonstrated that there is no need for an agricultural worker's dwelling in the locality. The requirements of any given farm holding will be considered secondary to the needs of agriculture as a whole.

2.80 Policy H18 will also apply to locations where there are already a few scattered buildings.

CONVERSION OF BUILDINGS IN THE COUNTRYSIDE

H19 PROPOSALS FOR THE CONVERSION OF A RURAL BUILDING, WHOSE FORM, BULK AND GENERAL DESIGN IS IN KEEPING WITH ITS SURROUNDINGS TO A DWELLING IN A LOCATION BEYOND THE BUILT-UP LIMITS OF A SETTLEMENT WILL BE FAVOURABLY CONSIDERED PROVIDED:-

(i) THE BUILDING CAN BE CONVERTED WITHOUT MAJOR REBUILDING OR EXTENSION AND WITHOUT INAPPROPRIATE ALTERATION TO ITS FORM AND CHARACTER;

(ii) THE PROPOSAL WOULD NOT CAUSE SIGNIFICANT HARM TO THE CHARACTER OF THE COUNTRYSIDE OR THE IMMEDIATE SETTING OF THE BUILDING;

(iii) THE PROPOSAL WOULD NOT HARM THE SPECIAL CHARACTER AND INTEREST OF A BUILDING OF ARCHITECTURAL OR HISTORIC SIGNIFICANCE;

(iv) THE PROPOSAL MEETS THE REQUIREMENTS OF THE OTHER POLICIES IN THE PLAN.

2.81 It is intended that this policy should encourage the conversion not of buildings of modern construction but of traditional farm buildings whether or not they are listed as being of architectural or historic interest whose usefulness has been displaced by modern farming methods. Many of these buildings are suitable for alternative non-agricultural use but some are not. For example, a free-standing cattle shelter or hovel will not normally be regarded as worthy or suitable for conversion whereas a substantially built barn in a relatively good structural condition might well be acceptable. The Council will resist proposals that imply substantial rebuilding and are tantamount to the erection of a new dwelling in the countryside.

2.82 It is important to protect the appearance and character of the countryside for present and future generations. Residential use can bring with it characteristics which are difficult to reconcile with unspoilt countryside, including caravans, sheds, greenhouses and swimming pools, which are often exempt from planning control. The Council will, therefore, carefully assess individual proposals in terms of the visual impact they would have on the landscape within which they are situated. In many cases it will be possible to mitigate visual intrusion by appropriate indigenous tree planting and the definition of a curtilage for the building in a manner appropriate to its setting, e.g. natural stone walls or hedging of indigenous species. In an isolated location in relatively open landscape such measures are unlikely to be effective and conversion would be resisted.

2.83 Policy H19 seeks to minimise the extent of physical changes to a building worthy of retention for architectural, historic or aesthetic reasons and for this reason, conversions of such buildings to more than a single dwelling are unlikely to be acceptable. The conversion of a barn for example, the intrinsic character of which is in most cases in its simplicity, is less likely to be satisfactorily achieved if it requires fenestration and door openings to serve two dwellings rather than one. Similarly while the conversion to a dwelling or other new uses can frequently be the key to the preservation of an historic rural building the work should not damage the fabric or character of the building for example through the subdivision of large spaces or the removal of features which contribute to the special character and interest of the building.

C27 DEVELOPMENT PROPOSALS IN VILLAGES WILL BE EXPECTED TO RESPECT THEIR HISTORIC SETTLEMENT PATTERN.

9.64 The settlement pattern of a village can be as important to its character as the buildings. Proposals which would result in the obliteration of part of an historic plan form or fail to respect the traditional settlement pattern will be considered contrary to policy and will be resisted.

9.65 Particular attention will be paid to policy C27 within the existing and proposed conservation areas where the character of the settlement is particularly sensitive to change.

C28 CONTROL WILL BE EXERCISED OVER ALL NEW DEVELOPMENT, INCLUDING CONVERSIONS AND EXTENSIONS, TO ENSURE THAT THE STANDARDS OF LAYOUT, DESIGN AND EXTERNAL APPEARANCE, INCLUDING THE CHOICE OF EXTERNAL-FINISH MATERIALS, ARE SYMPATHETIC TO THE CHARACTER OF THE URBAN OR RURAL CONTEXT OF THAT DEVELOPMENT. IN SENSITIVE AREAS SUCH AS CONSERVATION AREAS, THE AREA OF OUTSTANDING NATURAL BEAUTY AND AREAS OF HIGH LANDSCAPE VALUE, DEVELOPMENT WILL BE REQUIRED TO BE OF A HIGH STANDARD AND THE USE OF TRADITIONAL LOCAL BUILDING MATERIALS WILL NORMALLY BE REQUIRED.

C29 THE COUNCIL WILL SEEK TO ENSURE THAT ALL NEW BUILDINGS, EXTENSIONS AND ALTERATIONS TO EXISTING BUILDINGS ADJACENT TO THE OXFORD CANAL, ARE DESIGNED TO A HIGH STANDARD WHICH COMPLEMENTS THE TRADITIONAL CHARACTERISTICS OF THE WATERSIDE SETTING IN TERMS OF THEIR DESIGN, MATERIALS AND LANDSCAPING.

9.66 The standard of design acceptable to the District Council will be influenced by the environmental context of the site and its surroundings, and the nature, size and prominence of the development proposed. Design considerations will, when appropriate, include the siting, layout, size, scale, architectural style, building materials, means of enclosure and landscaping of new buildings and associated land uses. The Council will seek to avoid discordant or badly designed development that would harm the appearance and character of the existing built environment, the Green Belt or the countryside.

9.67 In appropriate circumstances a landscaping scheme incorporating the retention of existing trees and hedgerows of amenity value will be required to be included as part of development proposals. Trees are a valuable feature of both the rural and the urban landscape. Their amenity value and screening effect can enhance the appearance of new development. Thus wherever new tree or hedge planting is considered desirable for aesthetic reasons, and can be justified by the nature or scale of the development proposed, the Council will attach appropriate conditions to a planning approval. Landscaping schemes should normally include tree and shrub planting but should also include landscape modelling and hard-surface detailing whenever necessary. General guidance for developers is given in BS. 5837:1991 - "A Guide to Trees in Relation to Construction" although developers are advised to contact the Council's Leisure Services Department for more detailed advice.

9.68 It is not the object of policy C28 to suppress innovation and creativity of design. In order to promote the creation of an interesting and attractive built environment the Council will encourage variety in design, provided that the appearance of a proposed new development is sensitive to the particular site and is in harmony with the general character of its surroundings.

C30 DESIGN CONTROL WILL BE EXERCISED TO ENSURE:

- (i) THAT NEW HOUSING DEVELOPMENT IS COMPATIBLE WITH THE APPEARANCE, CHARACTER, LAYOUT, SCALE AND DENSITY OF EXISTING DWELLINGS IN THE VICINITY;
- (ii) THAT ANY PROPOSAL TO EXTEND AN EXISTING DWELLING (IN CASES WHERE PLANNING PERMISSION IS REQUIRED) IS COMPATIBLE WITH THE SCALE OF THE EXISTING DWELLING, ITS CURTILAGE AND THE CHARACTER OF THE STREET SCENE;
- (iii) THAT NEW HOUSING DEVELOPMENT OR ANY PROPOSAL FOR THE EXTENSION (IN CASES WHERE PLANNING PERMISSION IS REQUIRED) OR CONVERSION OF AN EXISTING DWELLING PROVIDES STANDARDS OF AMENITY AND PRIVACY ACCEPTABLE TO THE LOCAL PLANNING AUTHORITY.

9.69 The Council wishes to secure environmental enhancement through new development. Proposals that would detract from the character of an area owing to obviously poor design will be resisted. Similarly proposals that would change the established character of an area, by, for example, introducing high-density housing development where low densities predominate, will normally be unacceptable. The design and layout of new development can also assist with crime prevention and the Council will have regard to the advice in Circular 5/94 'Planning Out Crime' and 'Secured by Design' initiative. The assistance of the Thames Valley Policy Architectural Liaison Officer will be sought in this context.

C31 IN EXISTING AND PROPOSED RESIDENTIAL AREAS ANY DEVELOPMENT WHICH IS NOT COMPATIBLE WITH THE RESIDENTIAL CHARACTER OF THE AREA, OR WOULD CAUSE AN UNACCEPTABLE LEVEL OF NUISANCE OR VISUAL INTRUSION WILL NOT NORMALLY BE PERMITTED.

9.70 The Council wishes to ensure that new development, including changes of use, does not prejudice the environment of the areas concerned. The above policy seeks to prevent the introduction of incompatible non-residential uses in residential areas.

C32 IN CONSIDERING PROPOSALS FOR DEVELOPMENT THE COUNCIL WILL SUPPORT MEASURES THAT PROVIDE, IMPROVE OR EXTEND ACCESS FACILITIES FOR DISABLED PEOPLE.

9.71 A large number of people in the District have difficulty in terms of mobility and access. Disabilities often confine people to wheelchairs but there are many others who are not so confined but who still have a mobility impairment. Examples include those with heart conditions or breathing difficulties, those with hearing or sight impairments, parents with infants in pushchairs or prams, and the elderly generally. There are also those with temporary impairments including those with broken limbs and pregnant women.

9.72 The Council is committed to creating an environment with fewer potential hazards for the disabled and where equal opportunities for access exist for all sections of the population. The main statutory means of control is through Part M of the Building Regulations which applies to most new buildings and major extensions, both to the inside of those buildings and the approaches to them, and to staff as well as visitors. Housing is not yet included but the government is reviewing this (see Housing Chapter). The Council will also use its powers under other legislation, including the planning acts, to seek to provide for the needs of the disabled outside buildings, including pedestrianisation schemes (see the Chapter on Town Centres and Local Shopping). The plan contains many other references in particular chapters where the needs of the disabled are considered in more detail.

9.73 Design considerations outside buildings include the need for level access, ramps (and steps for those who find them easier), even surfaces, convenient parking, dropped kerbs, tactile crossings, the generous provision of seating, handrails etc. Good design practice will be encouraged in design briefs. The advice of the Council's Access Officer (and Oxfordshire County Council's), local access groups and local media will be sought in appropriate cases.

9.74 Trees are a valuable feature of both the rural and the urban landscape. Their amenity value and screening effect can enhance the appearance of new development. Thus wherever new tree or hedge planting is considered desirable for aesthetic reasons, and can be justified by the nature or scale of the development proposed, the Council will attach appropriate conditions to a planning approval. Landscaping schemes should normally include tree and shrub planting but should also include landscape modelling and hard-surface detailing whenever necessary. General Guidance for developers is given in BS 5837:1991- A Guide to Trees in Relation to Construction although developers are advised to contact the Council's Leisure Services Department for more detailed advice.

9.75 Landscaping is an essential component of housing development, and to be successful should be considered from the outset and should incorporate those existing trees and hedgerows which would be of amenity value to the new housing.

C33 THE COUNCIL WILL SEEK TO RETAIN ANY UNDEVELOPED GAP OF LAND WHICH IS IMPORTANT IN PRESERVING THE CHARACTER OF A LOOSE-KNIT SETTLEMENT STRUCTURE OR IN MAINTAINING THE PROPER SETTING FOR A LISTED BUILDING OR IN PRESERVING A VIEW OR FEATURE OF RECOGNISED AMENITY OR HISTORICAL VALUE.

9.76 Not all undeveloped land within the structure of settlements can be built on without damage to their appearance and rural character. Where the existing pattern of development is loose-knit there will often be a compelling case for it to remain so for aesthetic, environmental or historical reasons.

9.77 Proposals that would close or interrupt an important view of a historic building eg a church or other structure of historical significance, will be resisted under this policy. The Council will also have regard to the importance of maintaining the setting of a listed building and will resist infill development that would diminish its relative importance or reduce its immediate open environs to the extent that an appreciation of its architectural or historical importance is impaired.

9.78 Proposals that would close or interrupt an important vista across open countryside will also be discouraged, as will the loss of trees of amenity value or the loss of features such as boundary walls where they constitute an important element of an attractive or enclosed streetscape.

C34 BUILDINGS WHOSE HEIGHT OR APPEARANCE WOULD SPOIL VIEWS OF ST MARY'S CHURCH, BANBURY, WILL NOT NORMALLY BE PERMITTED.

9.79 In implementing policy C34 the Council will have regard to the physical context of the development proposed. Proposals for new buildings of obviously poor design or ostensibly out of scale with their surroundings or of incongruous materials will normally be resisted. Regard will be taken of the topography of the site, existing trees, and other features of importance. New development in accordance with the proposals in Chapter 3 on land adjacent to the M40 will be

APPENDIX 9
Various appeal decisions



Appeal Decision

Inquiry held on 14 – 17 and 21 July 2015

Site visit made on 21 July 2015

by Gloria McFarlane LLB(Hons) BA(Hons) Solicitor (Non-practising)

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

Decision date: 27 August 2015

Appeal Ref: APP/C3105/W/14/3001612

Land off Lince Lane, Kirtlington, OX5 3HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Gladman Developments Limited against Cherwell District Council.
- The application Ref 14/01531/OUT, is dated 4 September 2014.
- The development proposed is the demolition of the existing bungalow and agricultural buildings and residential development of up to 95 dwellings including highway works, landscaping and Public Open Space.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is in outline with all matters other than access reserved for future applications. An illustrative only masterplan has been provided in the Design and Access Statement¹.
3. A completed planning obligation pursuant to s.106 of the 1990 Act was provided at the Inquiry and therefore the Council's second deemed reason for refusal, that is, that 'in the absence of a planning obligation infrastructure and affordable housing directly required as a result of the scheme would not be delivered' was no longer an issue in the appeal.

Main Issues

4. I consider that there are two main issues. The first is whether the proposed development would be appropriate having regard to the relevant Local Plan policies, the character, setting and the settlement pattern of Kirtlington and its location in the countryside. The second is whether the Council has a five year housing land supply, having regard to the housing requirement, the appropriate buffer, the application of the buffer to the shortfall, the Annual Monitoring Report 2014 and the delivery of housing.

¹ CD 1.4 Figure 33 page 30

The appeal site and context

5. The appeal site is a field of about 5.8 hectares located to the north and west of Lince Lane. It has a short frontage onto the road with a vehicular access in the southern corner. The site lies to the southwest of Kirtlington and is outside the settlement boundary. The site is bounded by Kirtlington Golf Club to the south and west, by pasture to the north and by houses on Oxford Close and Lince Lane to the east. There is a bungalow and a group of modern farm buildings in the southwest corner of the site known as Corner Farm. A public right of way runs north-south across the site, adjacent to the eastern boundary with Oxford Close, exiting onto Lince Lane in the south and Hatch Way at the north.

Chronology of relevant dates

31 January 2014	Emerging Cherwell Local Plan submitted for examination
4 June 2014	Examination adjourned because of concerns about housing delivery
4 September 2014	Application for outline permission for up to 95 houses (the subject of the appeal)
9-23 December 2014	Examination of Local Plan resumed
18 December 2014	Appeal made on the basis of non-determination
19 March 2015	Deemed reasons for refusal (referred to no five year housing land supply)
31 March 2015	Publication and approval of Annual Monitoring Report 2014
21 May 2015	Amended deemed reasons for refusal (referred to a five year housing land supply)
9 June 2015	Date of Local Plan Inspector's Report
13 July 2015	Inquiry opened
20 July 2015	Cherwell Local Plan Part 1 (2015) adopted by the Council
21 July 2015	Inquiry closed

Reasoning

First issue: The appropriateness of the proposed development

Relevant Local Plan policies

6. The Local Plan Inspector addressed the strategy of the Local Plan with regard to the numerous villages and rural areas in the District as follows: "The plan's overall strategy focuses most new development on the two towns of Bicester and Banbury, with about 5,400 new homes in the rural areas, including at Kidlington and the former RAF Upper Heyford to 2013. This is clearly the most sustainable strategy for the district over the plan period and reflects the guidance in paragraphs 17 and 30 of the National Planning Policy Framework (the Framework). It properly seeks to alter the local pattern of recent housing

growth, as a disproportionate percentage (almost half) has taken place in the smaller settlements, adding to commuting by car and congestion on the road network at peak hours. The number of new homes outside the two towns would be about a quarter of the overall total for the plan period taking into account the significant level of housing land supply already available in the rural areas”².

7. Policy Villages 1, where Kirtlington is designated as a Category A service village, advises that proposals for residential development within the built up limits will be considered for minor development, infilling and conversion. It was agreed at the Inquiry that the proposal does not fall within this policy because the site is outside the built up limits of the village and the proposal for up to 95 dwellings is not ‘minor development’. The designation means that, so far as development within the built up area is concerned, Kirtlington is considered to be one of the most sustainable villages in the District³.
8. Policy Villages 2 provides that a total of 750 homes will be delivered at Category A villages on new sites for 10 or more dwellings⁴ and it was agreed at the Inquiry that ‘at Category A villages’ could mean adjacent to the settlement boundary. The Policy goes on to say that ‘sites will be identified through the Local Plan Part 2, through the preparation of Neighbourhood Plans where applicable, and through the determination of applications for planning permission’ which means that the proposal is one that can properly be considered under the terms of Policy Villages 2 and the criteria that are set out therein.
9. The Parties agreed that the figure of 750 was not a ceiling or maximum but neither is it a minimum figure. The Local Plan Inspector referred to ‘around 750 new homes in total’⁵ and I note that a dictionary definition of ‘total’ which is the word used in the Policy and by the Local Plan Inspector is ‘complete, comprising the whole, absolute, unqualified’⁶ which seems to me to imply a limit of 750. Be that as it may, even if the figure of 750 is not a maximum or strict limit, any significant increase over and above 750 could lead to unconstrained growth which would result in non-compliance with the strategy for re-balancing housing growth away from the villages and rural areas.
10. The Housing Delivery Monitor appended to the Annual Monitoring Report 2014 (AMR) shows that 473 homes are expected from deliverable sites at Category A villages which results in 277 homes out of the ‘total of 750’ having to be delivered for the remaining 16 years of the plan period up to 2031; the proposal would reduce this to 182 homes over 16 years.
11. In referring to Policy Villages 1 the Local Plan Inspector said that “Most of the rural housing would be directed to the larger villages with existing services and facilities as the clearly more sustainable locations in accordance with paragraphs 28, 55 and 70 of the [Framework]”⁷. Mr Keen provided a table in which he set out the 23 Category A villages in order of their population size and allocated the 750 homes to them pro rata⁸. On his calculations Kirtlington,

² CD 9.4 paragraph 212

³ CD 18 paragraph C.226

⁴ CD 18 paragraph C.234a

⁵ CD 9.4 paragraph 218

⁶ The Concise Oxford Dictionary

⁷ CD 9.4 paragraph 213

⁸ Appendix B to Mr Keen’s proof

which ranked 11th with a population of 988, would receive 17 homes. Whilst Kirtlington is designated as one of larger villages it is in the middle of that category and although development is not precluded, the size of the village in relation to others is a factor to take into account in the distribution of development.

12. I cannot speculate what might happen in the future with regard to such matters as where housing may be most needed or the numbers that may be required, but the indications are that the provision of 95 homes in one location at this early stage of the Local Plan period would leave little scope for development in the other Category A villages either in terms of numbers or timing and would thus not be in accordance with the housing strategy for the villages as set out in the Local Plan and addressed and confirmed by the Local Plan Inspector. In addition, the provision of 95 homes at Kirtlington would result in a significant increase in the population which would raise further matters which will be the subject of the following issue.
13. In my opinion similar issues with regard to housing development in the other villages would also arise even if there was no five year housing land supply and the Local Plan housing policies were not up-to-date because other strategies in the Local Plan with regard to such matters as employment, transport, public services and utilities would be undermined by unconstrained and unplanned growth. The provision of 95 homes in Kirtlington would, in my opinion, not be in compliance with the overall housing strategy in the Local Plan.

The character, setting and the settlement pattern of Kirtlington and its location in the countryside

14. The village lies on a slight ridge to the east of the River Cherwell about 13km north of Oxford. It is close to the junction of two landscape character areas as defined by the Countryside Design Summary, that is, the Cherwell Valley to the west and the Ploughley Limestone Plateau to the east.
15. The characteristics of the Cherwell Valley include a loose patchwork of fields with strong field patterns concentrated on steeply undulating land and close to villages; the fields are bounded by mixed thorn hedgerows, many of which contain oak trees, but large woodland belts are not characteristic; and there are extensive views across rolling slopes from both sides⁹.
16. The characteristics of the Ploughley Limestone Plateau include extensive remains of 18th century parkland and estate farmland; fine specimens of single trees enclosed by limestone walls and groups of pine trees; adjacent to the parkland, farmland displays estate farm characteristics such as railings and avenues of trees¹⁰. The character analysis suggests that Kirtlington is an estate village built around a series of formal village greens¹¹ and one of the implications for new development is that it should reinforce the existing street pattern, which creates the basic village form. In linear villages, development should strengthen the dominant street scene and limit backland development and new development proposals should reflect the character found in the immediate locality in terms of the relationship between buildings, open space and roads¹².

⁹ CD 16.2 page 5 paragraph 2.1

¹⁰ CD 16.2 page 11 paragraph 2.1

¹¹ CD 16.2 page 12 paragraph 3.1 (iv)

¹² CD 16.2 page 12 paragraph 3.2

17. The Appellant undertook a landscape and visual assessment and the Statement of Common Ground records that the Parties agree with the Council's Landscape Planning Officer's comment that "the conclusions of the landscape and visual assessment are fair. The study shows that the development will have a limited effect on the wider landscape"¹³. The Landscape Planning Officer's comments go on to say that "There will be greatest impact from the footpath to the rear of Oxford Close, the dwellings backing onto the site and the open view from the proposed entrance to the site on Lince Lane"¹⁴.
18. I accept that the proposal would have a limited effect on the wider landscape and that it would not be visually intrusive in views from many public viewpoints. It would, however, be extremely visible when entering the village from the south where the current field provides an open and rural approach to the built up area of the village. I appreciate that the village boundary could be expanded but the expansion of the village as proposed, because of its depth, scale and housing with associated infrastructure, would result in an urban character to the outskirts of the village which would have an unacceptably harmful effect on the undeveloped landscape and the setting of the village.
19. The Year 1 significance of effect on the residents of some dwellings in Oxford Close; The Bungalow; and Windover as stated in the Landscape and Visual Assessment is major/moderate adverse¹⁵. Although the number of affected properties is relatively small, the proposal would have an adverse visual impact and this weighs against the proposal.
20. The village of Kirtlington lies on several ancient routes and it is a settlement that dates back to at least Saxon times. Although there is no suggestion that the proposal would have any effect on the Kirtlington Conservation Area it is notable that there is a moated site to the east of the school that is a scheduled monument; St Mary's Church is Grade II* listed; Kirtlington Park is a listed Grade I Palladian house located to the east of the village within Grade II listed parkland; and there are about 30 Grade II listed, mostly residential, buildings in the village.
21. The Appellant and the Council agree that Kirtlington's traditional linear settlement pattern, predominantly along a north-south route, contributes strongly to its character. They disagree, however, whether the historic core of Kirtlington and the development that has taken place since the Second World War results in it being a village of two parts (the Appellant's position) or not (the Council's case).
22. The historic core comprises about 250 dwellings which tend to front directly onto the roads and village greens. The linear form is particularly evident on the western side of the A4095, around the South and North Greens and along Bletchington Road. Since the 1940s about 200 new homes have been added to the village; in the main these have been small backland developments around cul-de-sacs, some on previously developed land such as the five house development on Mill Lane in a former quarry¹⁶ and others on land closely associated with the dwellings/buildings fronting the road¹⁷. These relatively recent developments were small, comprising about 10 houses in each phase,

¹³ SOCG 1 paragraph 4.1.7

¹⁴ CD 16.4

¹⁵ CD 1.5 Appendix 2 Tables 2 page 5

¹⁶ GDL 7 – marked yellow

¹⁷ St John's Map of Kirtlington 1750, Exhibit EB1 to Mr Booth's proof and Kirtlington Farmlands map c.1805 IP 6

and there have also been a small number of individual developments within the settlement boundary¹⁸.

23. From the evidence and from what I saw on my visits¹⁹ to Kirtlington it is apparent that the village has developed over time, predominantly along the north-south axis, and that the phasing of more recent development, much of which is linked together and to the main road by short cul-de-sacs and footpaths, has been gradual and restricted in numbers. The resulting village is a coherent mix of 'ancient and modern' development that sits comfortably together forming an attractive and relatively compact village. I therefore concur with the Council's case.
24. The proposal, in contrast to the settlement pattern and the history of gradual growth over time, would provide up to 95 dwellings at a rate of about 35 dwellings per year within the next five years²⁰ which would represent a 20% increase in the size of the village. In addition, the proposal would accommodate about 228 residents²¹ whereas the most up-to-date census figure for the population of the village is 988²².
25. The development and character of Kirtlington is reflected in the clustering of small numbers of buildings that have been erected at different times and gradually absorbed into the village. The proposed development, involving a large number of houses and residents at one time, would considerably exceed the threshold of incremental change and expansion that has occurred in Kirtlington and would be detrimental to the established character of the village.
26. The appeal site lies to the south-west of the village and the proposal would extend the village to the west; the proposed development would be approximately double the width of the development comprising the dwellings fronting the A4095 and in Oxford Close at the southern end of the village. Although not perhaps the most elegant description, I agree with Mr Booth that the proposal 'represents a large bulge jutting out from the long and relatively narrow shape of Kirtlington into the open countryside'²³. The proposal would therefore not reflect the linear settlement pattern of Kirtlington, which I consider further below.
27. The new vehicular access would be some distance outside the built-up area of the village, unlike the other cul-de-sac accesses, and although this could help in limiting traffic through the village it would not lead to integration of the appeal site into the village. The improvement of the public right of way through the appeal site would be a benefit, as would the extension of the footpath along Lince Lane from the southern end of the public right of way; but as the public right of way from the appeal site in the north to Hatch Way lies outside the Appellant's control, even with the imposition of a Grampian condition requiring improvement and maintenance, little if anything could be done to improve the current narrow width and its route which includes a corner and a bend. Because of these impediments I consider that the footpath link would provide only very limited access to, and integration with, the heart of the

¹⁸ IP 6

¹⁹ In addition to the accompanied site visit I made two unaccompanied visits on 13 and 17 July 2015

²⁰ Mr Podesta's proof paragraph 6.4.12 9th point

²¹ Mr Podesta's proof paragraph 12.8.4

²² Mr Hartley's proof paragraph 4.49

²³ Mr Booth's proof paragraph 7.4

- village. The constraints of the vehicular and pedestrian accesses emphasise the separation of the proposal from the village.
28. The importance of design is a key aspect of sustainable development and the Framework advises that 'securing high quality and inclusive design goes beyond aesthetic considerations', and that decisions should 'address the connections between people and places and the integration of new development'²⁴. Supporting advice in the Planning Practice Guidance (PPG) says that 'achieving good design is about creating places or spaces that work well; successful integration of new development with their surrounding context is an important design objective, irrespective of whether a site lies on the urban fringe or at the heart of a town centre; proposals should promote accessibility and safe local routes by making places that connect appropriately with each other and are easy to move through; a place should have an appropriate number of routes to and through it; and that designs should ensure that new and existing buildings relate well to each other, that spaces complement one another²⁵.
29. Taking the Framework and the PPG into account, while I accept that the layout within the site and the appearance of individual buildings can be left to a later stage, the access is not reserved. Accessibility would be limited as I have identified above and the proposal would not have any meaningful connection with the village; the proposal would be a separate housing estate on the edge of, but not part of, the village. The proposal would be poorly integrated into the fabric of the built environment of Kirtlington and it would therefore fail to comply with the Framework and would not amount to sustainable development. I give substantial weight to this matter.
30. Mr Barnes was instructed by the Appellant to 'assist with the preparation of material for an outline planning application for new houses and associated landscape improvements on this site in Kirtlington'²⁶. As with Mr Barnes I am concerned in this appeal with this proposal only; evidence and submissions about 'where [or, indeed, even if] it would be appropriate to accommodate further development in Kirtlington'²⁷ therefore do not fall to be considered.
31. I do, however note, that the Strategic Housing Land Availability Assessment 2014 (SHLAA)²⁸ identified the appeal site as a 'potentially developable site for about 75 dwellings on a narrower 2.5 hectare of land to rear of Oxford Close'²⁹. The SHLAA is 'an evidence source to inform plan making and it sets out information on developable land availability for growth options to be investigated further through the plan-making process'³⁰ and I note that the appeal site was not included in the very recent Local Plan process. In addition, the potential noted was for a smaller area of land and for a smaller number of houses than are the subject of this appeal.
32. Policies H18, C8, C28 and C30 of the Cherwell Local Plan 1996³¹ have been retained under the Local Plan. The Appellant accepts that the appeal site is to

²⁴ Paragraphs 56 and 61

²⁵ PPG Paragraphs 001, 007, 008, 022 and 024 ID: 26-20140306

²⁶ Mr Barnes' proof paragraph 1.2.1

²⁷ Document D paragraph 89

²⁸ CD 12.3

²⁹ CD 12.4

³⁰ CD 12.3 paragraph 2.1.3

³¹ CD 8.2

be treated as “open countryside” and, as such, it conflicts with Policy H18³² the intention of which is to ensure that the countryside is protected from sporadic development whilst at the same time recognising the legitimate needs of agriculture and forestry. Policy C8 also seeks to resist sporadic development in the open countryside and, although it specifically refers to development in the vicinity of motorway or major road junctions, I consider it to be a relevant policy in this appeal which concerns a proposed development in the open countryside. Policy C28 largely concerns standards of layout, design and external appearance, which would be matters for future consideration; but both Policies C28 and C30 seek to ensure that development is sympathetic to the character of the rural context and that new housing development is compatible with the scale of existing dwellings in the vicinity. The Policies are consistent with the Framework in that they contribute to conserving and enhancing the natural environment³³ and therefore I give them significant weight.

33. Policy ESD13 of the Local Plan 2015 provides, among other things, that proposals will not be permitted if they would harm the setting of settlements and be inconsistent with local character. Policy ESD16 advises that, among other things, new development proposals should be designed to improve the quality and appearance of an area. One of the criteria in Policy Villages 2 is that development should contribute to enhancing the built environment.
34. For the reasons I have set out above I conclude that the proposal would not be appropriate having regard to the character, setting and the settlement pattern of Kirtlington and its location in the countryside and that it would not be in accordance to the Development Plan policies referred to above.

Second issue: Housing land supply

35. In raising the question of the five year housing land supply the Appellant agreed that it was not appropriate in this appeal to carry out some sort of Local Plan process³⁴ but the Appellant’s case was that an interrogation of the figures in the trajectory and other matters such as the Annual Monitoring Report (AMR) were proper issues for the Inquiry. If the Appellant’s case is accepted, and a five year housing land supply could not be demonstrated the housing policies in the Local Plan, adopted the day before the Inquiry closed, would not be up-to-date³⁵.

The Local Plan (2015)

36. The Cherwell Local Plan Part 1 (2015) (the Local Plan) was adopted on 20 July 2015³⁶. The Local Plan five year housing requirement for the period 2015-2020 is 9,464³⁷ which is based on a housing trajectory for the period 2011-2031; this trajectory was before the Local Plan Inspector.
37. In his report³⁸, the Local Plan Inspector considered Policy BSC1: District Wide Housing Distribution and he concluded “Overall and taking into account all the available evidence, statements and submissions, that, as modified, the plan is based on a full and up to date objective assessment of housing need in the

³² Document A paragraph 11 and Document D Schedule paragraph 2

³³ Paragraph 17

³⁴ Document D paragraph 22

³⁵ NPPF paragraph 49

³⁶ CD 18

³⁷ Document C paragraph 25

³⁸ CD 9.4

area to 2031, taking account of reasonable population and household projections, having regard to all relevant local factors, including current market conditions in the district. The modified new housing total and revised housing trajectory represents a reasonable and realistic, deliverable and justified basis for meeting local needs over the plan period³⁹. ... The plan would be consistent with the objectives of the [Framework] in providing a significant boost to new housing delivery and in terms of helping to provide a rolling 5 year supply of sites across the area. In particular, this would be assisted by the allocation of the strategic sites that are critical to overall delivery, in direct accord with the first point of paragraph 47 of the [Framework]⁴⁰."

38. The first point of paragraph 47 of the Framework says that "to boost significantly the supply of housing, local planning authorities should use their evidence base to ensure that their Local Plan meets the full, objectively assessed need for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework, identifying key sites which are critical to the delivery of the housing strategy over the plan period".
39. The Local Plan, after a lengthy process and full examination, was found to be sound and adopted.
40. The differences between the Parties range across both what should be regarded as the objectively assessed need to provide for a five year period and the details of the supply. On the basis of the evidence put to me at the Inquiry, including that from both sides concerning what was before the Local Plan Inspector, it is plain that there are significant differences between each Party on all issues. In particular, on the requirement side the Appellant criticises the Council's position at the Inquiry, as well as its adopted Local Plan, for failure to apply the correct buffer (and then failure to apply the buffer itself to the correct housing requirement figure, that is, that including the shortfall identified in the AMR).
41. In short and in sum, this results in a position, according to the Appellant, where, applying a 20% buffer to recognise what the Appellant argues (based on its very detailed evidence of delivery) is a history of persistent under-delivery, and having regard to the Council's latest AMR (which was not available to the Local Plan Inspector), there is a land supply of at best 3.7 years⁴¹ or at worst, depending on where the buffer is applied, 3.5 years⁴². I will return below to the make-up of the supply side assumptions.
42. On the other hand, the Council maintains that, notwithstanding its past acceptance in considering other proposals, when a 20% buffer was applied, its Local Plan is reasonably and correctly based on a 5% buffer. Accordingly, taking account of data in its AMR, it claims that it can demonstrate a housing land supply for the 2015-2020 five year period amounting to a 5.1 years' supply⁴³, even if the 5% buffer is applied to the shortfall⁴⁴. It says that that supply is 8,950, a matter to which I return below.

³⁹ CD 9.4 paragraph 58

⁴⁰ CD 9.4 paragraph 59

⁴¹ GDL 7 Table 3

⁴² GDL 7 Table 4

⁴³ GDL 7 Table 1

⁴⁴ GDL 7 Table 2

43. The Local Plan Inspector's report is silent on whether he was specifically told or knew whether the 5% or the 20% buffer had been applied to the housing requirements and he reached no conclusion as to whether there had been persistent under delivery. However, it is clear that he was satisfied that the figures provided in the housing trajectory, which were based on a 5% buffer, 'represented a reasonable and realistic, deliverable and justified basis for meeting local needs over the plan period'⁴⁵ and, therefore, the housing trajectory met the requirements of the first bullet point of paragraph 47 of the Framework and that the Local Plan was sound. If he had not been so satisfied, it is a reasonable assumption that he would not have found the Local Plan to be sound.

Supply

44. The Appellant and the Council disagreed about the deliverable supply shown in the AMR in that the Council's figure was 8,950 and the Appellant's was 7,100. The Appellant's evidence given by Mr Johnson in relation to delivery rates was based on a report by Savills that was prepared for a major house builder, Barratt Homes, in October 2014⁴⁶. The report tracked the progress of 84 urban extensions through the planning system over the last 25 years and the analysis indicated that 'once construction starts and in a strong market, annual delivery can be anticipated to be around 60 units in the first year of construction, picking up to more than 100 units per annum in subsequent years and increasing to around 120 units'⁴⁷. The report went on to comment that 'We are aware of many urban extensions in the south of England where recent delivery rates have been substantially in excess of 120 units per annum'⁴⁸.
45. Taking this report into account and following some site visits Mr Johnson prepared a table of disputed sites with the conclusion that there was a shortfall in delivery of 1,850 between his figures and those in the Council's housing delivery monitor appended to the AMR 2014⁴⁹. During the course of oral evidence to the Inquiry it was agreed that some of the disputed sites were no longer 'disputed' but that there was a difference of opinion about where the figures should be allocated. The Appellant's case remained that there was a considerable shortfall in delivery.
46. Mr Peckford explained that the Council's figures for the housing delivery monitor in general, and the disputed sites in particular, had been derived from information provided by the house builders, landowners and agents involved with each site and that the Council had taken a cautious approach to the information provided and had calculated the delivery figures accordingly. Mr Peckford confirmed there were 946 completions for 2014-15 which exceeded the 632 in the trajectory.
47. The difference in methodology between the Council and the Appellant is of particular significance in respect of the site at Graven Hill, Bicester. This is a self-build proposal where the Council's figure is 600 homes in the five year period 2015-16 to 2019-20 and the Appellant's is 300. However, the Appellant's figures are based on those in the Savills report which in turn are taken from major house building sites and, as acknowledged by Mr Johnson in

⁴⁵ CD 9.4 paragraph 58

⁴⁶ Mr Johnson's Appendix 2

⁴⁷ Page 1 of the Savills report

⁴⁸ Page 2 of the Savills report – and it was agreed that this appeal site was in the south of England

⁴⁹ GDL 1 for Mr Johnson's table and Appendix 1 to Mr Peckford's proof for the AMR

- his evidence to the Inquiry, Savills do not include any information at all about this particular type of housing development.
48. Advice in the PPG with regard to assessing the timescale and rate of delivery says that 'on the largest sites allowance should be made for several developers to be involved. The advice of developers and local agents will be important in assessing lead-in times and build out rates by year'⁵⁰.
49. The Savills report, as relied on by Mr Johnson, provides useful general guidance on delivery rates based on a number of sites and years, but it is not site specific to this Council and it acknowledges that differences and variations occur. The Council's evidence is site specific to this locality and the Local Plan area and is based on direct information as advised by the PPG yet taking a realistic and cautious approach.
50. I have taken into account the comments made by the Inspector in the Sandbach decision that rather than rely on claims from landowners and developers "... it is more proper to take a cautious and conservative approach to delivery rates"⁵¹. But I am satisfied by Mr Peckford's evidence that the Council did not rely solely on the information received from developers, landowners and agents but adopted a cautious approach and adapted the figures accordingly.
51. I therefore find that, having regard to the specificity of the Council's data and analysis in this case, the Appellant's more generalised data cannot reasonably be applied to the circumstances of this Council, nor of this appeal, in the face of what I judge to be well founded and robust empirically based local data.
52. Whilst aware that, even in the context of a s.78 appeal, I am required to assess the housing requirement and supply positions, I also note that the PPG advises that "The examination of Local Plans is intended to ensure that up to date housing requirements and the deliverability of sites to meet a five year supply will have been thoroughly considered and examined prior to adoption, in a way that cannot be replicated in the course of determining individual applications and appeals where only the applicant's/appellant's evidence is likely to be presented to contest an authority's position"⁵².
53. As part of the Local Plan process the Local Plan Inspector examined delivery rates and, among other things, he said that "All the available evidence, including the recent viability up-date indicates that both the timing and total of new housing would be largely viable and essentially deliverable over the full plan period, albeit challenging for all concerned ... the Council's evidence is essentially robust, up to date and credible in these respects, with no insurmountable barriers apparent in relation to the strategic sites"⁵³. These findings were made after the Local Plan Inspector had heard evidence relating to delivery rates, which included representations by the Appellant that the delivery rates in the revised housing trajectory were not realistic⁵⁴. The case made by the Appellant in this appeal was in many respects similar to the representations made to the Local Plan Inspector which were rejected. In

⁵⁰ Planning Practice Guidance Paragraph: 023 Reference ID: 3-023-20140306 (Mr Peckford's Appendix 3)

⁵¹ GDL 2 paragraphs 23 and 26

⁵² Paragraph: 033 Reference ID: 3-033020150327 (Mr Peckford's Appendix 3)

⁵³ CD 9.4 paragraph 56

⁵⁴ Mr Peckford's Appendix 30 paragraph 6.1.4

accordance with the advice in the PPG I do not accept the Appellant's submissions on housing delivery/supply.

Conclusions

54. The PPG advises that "Housing requirement figures in up-to-date adopted Local Plans should be used as a starting point for calculating the five year supply. Considerable weight should be given to the housing requirement figures in adopted Local Plans which have successfully passed through the examination process unless significant new evidence comes to light"⁵⁵.
55. The 'significant new evidence' in this appeal is the Annual Housing Monitor 2014. The figures in this document are consistent with my findings above. I therefore conclude that the Council is able to demonstrate a five year supply of deliverable housing sites and that it follows that the relevant policies for the supply of housing in the Local Plan are up to date.
56. In reaching this conclusion I am mindful of the Council's closing submissions⁵⁶ that if the Appellant's case was accepted and the 20% buffer was applied on the shortfall, the 2015-20 housing requirement would be an additional 1,400 homes above that provided for by the Council⁵⁷ and 658 more homes than that projected in the Local Plan trajectory. Also, the Appellant's position with regard to supply is that with a requirement of 10,122 there is only a supply of 7,100⁵⁸. The Local Plan Inspector found the housing trajectory to be justified and challenging but achievable. In my opinion the Appellant's case as put at this Inquiry would mean that the Local Plan is not deliverable contrary to the Local Plan Inspector's conclusions. The PPG makes it clear that an appeal such as this cannot replicate a Local Plan examination and given the fact that the Local Plan was adopted during the course of the Inquiry it is not for me, in this appeal to challenge the Council's position which was found to be sound by the Local Plan Inspector.
57. In any event, on the basis of the evidence presented to the Inquiry and having regard to my findings above, and taking account of all other matters including the position concerning any contribution to meeting the City of Oxford's requirement that may arise in the future, I have no reason to disagree with the Local Plan Inspector's findings and judgement. I therefore conclude that the Council has a five year housing land supply,

Other Matters

Affordable housing

58. By virtue of the s.106 agreement 35% of the dwellings comprised in the development would be affordable homes. If 95 dwellings are completed this would equate to 34 units. The Housing Needs Survey 2011 (albeit somewhat dated) identified a local need for 15 affordable homes⁵⁹ and the Kirtlington Plan (also dated 2011) produced by the Parish Council identified 23 households looking for affordable housing⁶⁰.

⁵⁵ Planning Practice Guidance Paragraph:030 Reference ID: 3-030-20140306 (Mr Peckford's Appendix 3)

⁵⁶ Document C paragraphs 46-52

⁵⁷ GDL 7 Tables 4 (10,122) and 1 (8,721)

⁵⁸ GCL 7 Table 4

⁵⁹ CDC 1

⁶⁰ CD 13.1 page 20

59. Whilst the provision of affordable homes would be a benefit, particularly in a rural location such as this, the provision of that number of affordable units in excess of the requirement could be a dis-benefit in providing a concentration of affordable homes in one location where there is no assessed need for that number.

Sustainability

60. The designation of Kirtlington as a Category A village in Policy Villages 1 means that, so far as development within the built up area is concerned, Kirtlington is considered to be one of the most sustainable villages in the District⁶¹. "The most sustainable village" designation does not extend to development at Kirtlington as provided for by Policy Villages 2 to which this proposal applies.
61. The Framework establishes that there are three dimensions to sustainable development: economic, social and environmental⁶² and the presumption in favour of sustainable development⁶³. In order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.
62. Mr Hartley's largely unchallenged evidence demonstrated that Kirtlington fulfils many of the criteria for judging a sustainable settlement in that, among other things, it has a primary school, a village hall, a sports field and a post office/shop. It is agreed by the Appellant and the County Council that these facilities are within walking and/or cycling distance from the appeal site for most people⁶⁴.
63. However, the nearest GP and dentist are in Kidlington and the nearest secondary school is in Woodstock; both of these villages are just within the 5km radius of Kirtlington. Pupils attending the secondary school are provided with a bus service and no details were provided about how many pupils travel there from Kirtlington, either by the school bus or by private car.
64. The Parish Council advised that there were currently three to four part-time vacancies for employment within the village⁶⁵. The main sources of employment in the district are Bicester and Banbury, where the Local Plan focuses most new housing development "in order to ensure that the housing growth which the district needs only takes place in the locations that are most sustainable and most capable of absorbing this new growth"⁶⁶. Similarly the main shopping centres are in the two towns.
65. I note that the County Council considers that the bus routes through the village provide a realistic option for travel to these facilities and destinations⁶⁷. The Parish Council, however, advises that neither the GP surgery nor the dental surgery is on a Kirtlington bus route⁶⁸. I consider that the infrequent bus service, and the more infrequent service at weekends, even if the financial contribution to upgrade the bus service as provided for in the s.106 agreement was to be effective, means that transport to Kidlington, Bicester and Banbury

⁶¹ CD18 paragraph C.226

⁶² Paragraph 7

⁶³ Paragraph 14

⁶⁴ SOCG 5 paragraphs 4.2 and 4.3

⁶⁵ IP 8

⁶⁶ CD 18 paragraph B.85

⁶⁷ SOCG 5 paragraph 4.4 and 4.5

⁶⁸ IP 8

for employment, GP and dentist appointments and shopping/leisure would be more than likely to be by private car. In my opinion there would be little, if any, real choice of transport other than private car for future residents. Given the necessity for current and future residents to travel for a number of facilities, services and employment, the sustainability of Kirtlington itself and the proposal in particular is questionable.

66. Emphasis was placed by the Appellant on the economic benefits of the proposal which included a construction spend of about £10.06m; the creation of 94 full time equivalent jobs over the three year period of the development; the addition of 122 economically active residents; and Council Tax of about £1.1m over a ten year period.
67. The environmental benefit of the proposal would arise from the planting of native species in the Parkland Frame, the provision of bird and bat boxes⁶⁹ and generous open spaces. Whilst these matters would comprise a positive outcome of the proposal, they need to be balanced against the harm to the landscape and visual character that I have identified from the replacement of an open agricultural field by houses and vehicles and the resultant emissions and urbanisation of the countryside.
68. Taking all of these matters into account I consider that the proposal would not, on balance, be sustainable development in the terms of the Framework.

The primary school

69. Pursuant to the s.106 agreement a financial contribution would be made towards the expansion of the primary school that would be necessitated by the proposal. The evidence relating to the primary school was conflicting. The Parish Council was of the view that the school was at full capacity and there were concerns about excessive numbers in the coming year from the current village; the Chair of Governors confirmed there had been no dialogue with the governing body about plans to raise the capacity of the school and that this subject had not been raised when the Chair had a hand-over meeting with the departing Head Teacher in July 2015⁷⁰.
70. The County Council wrote that a meeting took place on 27 February 2015 between a representative of the Education Directorate and the then Head Teacher; there was, however, no agreed note of the meeting but the County Council assert that the concept of expansion was discussed and how, with remodelling/expansion, the school could increase its capacity; the potential capacity increase was considered feasible. The school is voluntary aided and is controlled by the Oxford Diocese which means that the County Council cannot insist that the school expands⁷¹. The s.106 agreement provides for 'the expansion of Kirtlington Church of England Primary School (or any alternative which achieves similar benefits) in such form and at such time as the County Council shall in its discretion decide'⁷².
71. The financial contribution would be based on the formula provided by the primary education matrix which depends on the final composition of the

⁶⁹ To be secured by condition

⁷⁰ IP 5

⁷¹ OCC 5

⁷² GDL 3 Fifth Schedule clause 1

development⁷³. I note that the sum of £370,740 is mentioned in the definition clause of the s.106 agreement⁷⁴ and that this sum is calculated on the basis of 32.01 pupil places⁷⁵. The discussion referred to in the paragraph above, however, appears to relate to an increase of 20 pupils only.

72. The presence of the primary school is an important feature of the village in respect of matters such as sustainability and social integration. However, its future appears to me to be unresolved and I cannot speculate whether the current school could be expanded or whether an alternative would have to be provided. The latter in particular could have a significant impact on the proposal in terms of travel and integration of the proposal into the village.

The access and traffic impact

73. The Parish Council instructed Peter Brett Associates to review the Transport Assessment submitted by the Appellant⁷⁶ and the conclusion in the review was that the Transport Assessment was not robust enough. Although the review was considered by the County Council, there was no change to its findings that in terms of highway design standards the proposed vehicular access provides an acceptable access to the proposed development and that there are no material traffic impacts associated with the proposed development⁷⁷.
74. Having seen the amount of traffic that passes through Kirtlington at busy times and the congestion caused at the end of the school day I share the concerns of the Parish Council about any increase in traffic that would arise from the proposal. I also share concerns about the proposed access given its location on a bend in the road and the two serious accidents reported by Peter Brett Associates that took place in 2009 and 2014 on bends on the A4095 close to the proposed site access. But the test in the Framework is that impact on transport and highways grounds must be severe to justify refusal⁷⁸ and given the conclusions of the Highway Authority this would not be the case in respect of both traffic movements and the access.

Conditions

75. The Framework advises that consideration should be given to whether an otherwise unacceptable development could be made acceptable through the use of conditions and that conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects⁷⁹.
76. I have considered the suggested and largely agreed conditions⁸⁰. Whilst they meet the tests in the Framework and are all relatively straightforward 'usual' conditions that would generally be imposed on an outline proposal such as this, given my findings in respect of the main issues I do not consider that their imposition would render the unacceptability of the proposal acceptable.

⁷³ SOCG 4

⁷⁴ GDL 3 Fourth Schedule clauses 1.6 and 1.11

⁷⁵ CD 4.11

⁷⁶ CD 1.6

⁷⁷ SOCG 5 paragraph 2.4 and 3.1

⁷⁸ Paragraph 32 3rd bullet point

⁷⁹ Paragraphs 203 and 206

⁸⁰ GDL 12 – only the 'red' condition was not agreed by the Appellant; those in blue and green had been added following the discussion about conditions

The planning balance

77. The proposal would provide affordable housing which in most cases would be a benefit to which significant weight would be given, but the amount that would be provided, being in excess of the quantified need, could result in an inappropriate concentration of such units in this one location.
78. There would be economic benefits arising from the creation of jobs in the construction of the development, the construction spend and indirectly from the new residents. The economic and social roles would be fulfilled by the provision of housing and the introduction of new residents, who would most likely be families with children, into a village where the population is aging. But there is no evidence that the village lacks vitality and despite the aging population the primary school is thriving (and full).
79. The Parkland, play areas and village green that form parts of the proposal would be of benefit to the occupiers of the development, but given the constraints of the pedestrian access and the separation of the appeal site from the village, the use of such areas by anyone other than occupiers of the proposal would be questionable.
80. Having in mind paragraph 49 of the Framework, the Appellant maintains that, if I were to find that the Council cannot demonstrate a five year supply of deliverable housing sites and that the relevant policies for the supply of housing in the Local Plan should therefore not be considered up-to-date, I should allow the appeal. However, that paragraph advises that housing applications should be considered in the context of the presumption in favour of sustainable development. Reference to paragraph 14 of the Framework indicates that for decision-taking this means: approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework.
81. I have found that the evidence put to me by the Appellant does not give me good reason to conclude that the recently adopted Local Plan is not soundly based in its provision for the housing that is required to be provided over the relevant five years (including a buffer). As to the supply itself, I have concluded that the Council's figures are the more robust and, based on the evidence put to the Inquiry, represent a reasonable assessment of the supply. Accordingly the Development Plan attracts great weight and I see no basis to find, therefore, that its policies for the supply of housing are out of date.
82. Bringing all of this together, given my findings on the first issue, that the proposal cannot be said to represent sustainable development, being conscious that the housing requirement is not a maximum or ceiling and having regard to my findings on the housing land supply position, I conclude that the proposal fails to satisfy Policy Villages 2 of the Local Plan⁸¹, and is not compliant with the Local Plan as a whole. The harm that the proposal would cause, as set out in my findings on the first issue, significantly and demonstrably outweighs such benefits that it would bring (principally in the provision of housing) so there are

⁸¹ As well as Policies H18, C8, C28 and C30 of the retained Cherwell Local Plan 1996 and Policies ESD13 and ESD16 of the Local Plan 2015

no material considerations which would warrant a decision other than in accordance with the Development Plan. Accordingly, the appeal should be dismissed.

83. For the avoidance of doubt, had my judgment on the housing requirement and/or supply positions been different, such that either or both had favoured the Appellant's position, leading me then to conclude that the Council had inaccurately assessed the need for housing and/or failed to provide an adequate supply, and thus its policies for the supply of housing were out of date, the harm I have found on the first issue would still have caused me to find that the benefits would not significantly or demonstrably outweigh the harm, which as my reasons illustrate, would be very substantial. The appeal would therefore not have succeeded.

The s.106 agreement

84. I have commented above on the obligations contained in the s.106 agreement. As I have reached the conclusion that the appeal should be dismissed there is no necessity for me to consider it further.

Conclusions

85. For the reasons given above, and taking all other matters into account, I conclude that the appeal should be dismissed.

Gloria McFarlane

Inspector

APPEARANCES

FOR THE APPELLANT

He called

Mr James Podesta Planning Manager for the Appellant Company
BA(Hons) DipTP MRTPI

Mr D Hartley Director of Planning – Rural Solutions Ltd
BSc(Hons) MA DipTRP MRTPI

FOR THE LOCAL PLANNING AUTHORITY

Mr H Flanagan Counsel

He called

Mr E Booth Director – The Conservation Studio
BA DipUD MRTPI IHBC FSA

Mr D Peckford
BA(Hons) MTP MRTPI

Mr A Keen Principal Planning Officer, Major Developments
BA(Joint Honours) MA MRTPI

FOR THE S.106 DISCUSSION

Mr G Owens Cherwell District Council, Investment and Growth Team Leader

INTERESTED PERSONS

Ms H Macbeth Deputy Chair Kirtlington Parish Council

Ms H Macbeth
Ms C Marsh

Ms C Marsh Local Resident
Cllr J Macnamara District Councillor for Astons and Heyfords

Em 3 Machanara
Ms 1 Shakleton

Ms J Shakleton Local Resident
Mr D Pratt Chair Kirtlington Parish Council

Mr D Platt
Ms J Esplen

Ms J Esplen Local resident
Mr A Mobley Local resident

AGREED STATEMENTS OF COMMON GROUND SUBMITTED PRIOR TO THE INQUIRY

SOCG 1 – Statement of Common Ground between the Appellant and the Council
SOCG 2 – Statement of Common Ground – Housing Land Supply
SOCG 3 – Supplementary Statement of Common Ground
SOCG 4 – Education Statement of Common Ground
SOCG 5 – Statement of Common Ground - Highways Matters

DOCUMENTS SUBMITTED AT THE INQUIRY BY THE APPELLANT

GDL 1 - Note 1: Cherwell District – Table of disputed sites
GDL 2 –Appeal decision APP/R0660/A/13/2189733
GDL 3 - S.106 agreement and letter of authority dated 17 July 2015
GDL 4 - Cherwell District Council Strategic Housing Land Availability Assessment Update 2014
GDL 5 - Plan of housing development in Kirtlington
GDL 6 - Appeal decision APP/G2713/A/14/2218137
GDL 7 –Tables showing AMR and Local Plan 5 year supply scenarios – agreed with the Council
GDL 8 - Unilateral Undertaking – Land at Barford Road
GDL 9 – Secretary of State’s letter and Inspector’s report – Land off Barford Road
GDL 10- Oxfordshire CC and SSCLG and Others [2015] EWHC 186 (Admin)
GDL 11- Route of accompanied site visit and illustrative masterplan
GDL 12- Draft conditions, agreed with the Council except for condition 14

DOCUMENTS SUBMITTED AT THE INQUIRY BY CHERWELL D C

CDC 1 – Consultation comments on affordable housing dated 6 October 2014
CDC 2 – Comments on affordable housing clauses in the s.106 agreement

DOCUMENTS SUBMITTED AT THE INQUIRY BY OXFORDSHIRE C C

OCC 1 – Statement on s.106 contributions
OCC 2 – Advice by Ian Dove QC dated 30 January 2014
OCC 3 – Advice by Ian Dove QC dated 7 May 2014
OCC 4 – Secretary of State’s letter and Inspector’s report – Land off Highworth Road
OCC 5 – Statement re Kirtlington Primary School

DOCUMENTS SUBMITTED AT THE INQUIRY BY INTERESTED PERSONS

IP 1 – Statement by Ms Marsh
IP 2 – Photographs of and comments about the footpath from the Parish Council
IP 3 – Statement by Cllr Macnamara
IP 4 – Email from a local resident
IP 5 – Email from the Parish Council about the Primary School
IP 6 – Email from the Parish Council and attachments – map of Kirtlington c.1805 and comments on GDL 5
IP 7 – Statement by Mr Mobley
IP 8 – Statement by Ms Macbeth, Deputy Chair of Kirtlington Parish Council

DOCUMENTS SUBMITTED BY THE ADVOCATES AT THE INQUIRY

Document A - Opening on behalf of the Appellant
Document B - Opening statement on behalf of the Council
Document C - Closing submissions on behalf of the Council
Document D - Closing on behalf of the Appellant

CORE DOCUMENTS

Folder 1

CD1 Submitted Planning Application Documents

- 1.1 Application, covering letter, application form and certificates
- 1.2 Location plan (including application red line)
- 1.3 Development framework plan
- 1.4 Design and access statement
- 1.5 Landscape and visual assessment
- 1.6 Transport assessment
- 1.7 Travel plan
- 1.8 Ecological assessment
- 1.9 Arboricultural assessment
- 1.10 Ground conditions desk study
- 1.11 Flood risk assessment
- 1.12 Air quality assessment

Folder 2

- 1.13 Noise assessment
- 1.14 Archaeological assessment
- 1.15 Built heritage
- 1.16 Socio economic report
- 1.17 Assessment of current and future sustainability
- 1.18 Statement of community involvement
- 1.19 Affordable housing review and statement
- 1.20 Planning statement

Folder 3

CD2 Additional documents submitted

- 2.1 Footpath statement
- 2.2 Refused access plans
- 2.3 Revised access plans Oct 2014

2.4 Revised access plans Nov2014

2.5 Speed survey

2.6 Geophysical survey

2.7 Archaeological evaluation report

2.8 Updated archaeological desk based assessment

2.9 Design and access statement additional character areas

CD3 Correspondence between Cherwell District Council and the Appellant

CD4 Consultee responses

4.1 OCC Planning archaeologist

4.2 CDC Community services

4.3 CDC Landscape planning officer

4.4 CDC Landscape planning officer

4.5 CDC Ecology officer

4.6 OCC Ecologist planner

4.7 Environment Agency

4.8 Thames Water development planning department

4.9 Thames Valley Police

4.10 OCC Property

4.11 OCC Education

4.12 OCC Transport

4.13 Kirtlington Parish Council

4.14 Kirtlington wildlife and conservation society

4.15 CDC Anti-social behaviour manager

4.16 Kirtlington Parish Council

4.17 CDC Arboricultural officer

4.18 Kirtlington Parish Council

Folder 4

CD5 Appeal scheme decision making

5.1 Committee Report 19 March 2015

5.2 Supplementary Update Report 13 March 2015

5.3 Transcript of Committee meeting

5.4 Resolution letter 20 March 2015

5.5 Committee Report 21 May 2015

5.6 Amended resolution letter 22 May 2015

CD6 Second application (Ref:14/02139/OUT) Documents

- 6.1 Development framework plan
- 6.2 Committee Report 19 March 2015
- 6.3 Transcript of Committee meeting
- 6.4 Decision notice 25 March 2015

CD7 Relevant post appeal correspondence

CD8 The Development Plan

- 8.1 Cherwell Local Plan Direction Letter
- 8.2 Extracts from the adopted Cherwell Local Plan
- 8.3 Local plan proposals map – Kirtlington

CD9 Emerging Development Plan

- 9.1 Extracts of illustrative Cherwell submission Local Plan Part 1 incorporating proposed modifications (February 2015)

9.2 Mid Cherwell Neighbourhood Plan Area designation application

9.3 Mid Cherwell neighbourhood Plan Area designation letter

9.4 Inspector's report into the Cherwell Local Plan June 2015

CD10 Relevant Appeal Decisions

10.1 APP/A0665/A/11/2167430 – Land off Nantwich Road, Taporley, Cheshire. Allowed 29 August 2013

10.2 APP/R0660/A/13/2192192 – Land opposite Rose Cottages, Holmes Chapel Road, Bereton Heath, Cheshire. Allowed 12 February 2014

10.3 APP/C1625/A/13/2207324 – Land off Bath Road, Leonard Stanley. Allowed 21 July 2014

10.4 APP/C3105/A/12/2182183 – Cherwell at the Green, Chesterton. Allowed 21 February 2013

10.5 APP/C3105/A/12/2184094 – Land north of the Bourne and adjoining Bourne Lane, Hook Norton. Allowed 23 September 2013

10.6 APP/C3105/A/12/2189191 – Milton Road, land south of Bloxham. Allowed 23 September 2013

10.7 APP/C3105/A/13/2189896 – Land off Barford Road, Bloxham. Decided (allowed by SoS) 23 September 2013

10.8 APP/N1350/A/2217552 – Land off Sadberge Road, Middleton St George, Darlington. Allowed 12 January 2015

10.9 APP/R0660/A/13/2209335 – Gesty Lane, Rope Lane, Crewe Road and A500 Crewe. Dismissed 19 January 2015

10.10 APP/C3105/A/14/2220513 – Land south of Broughton Road, Banbury. Dismissed 6 January 2015

10.11 APP/C3105/A/14/2227907 – Harwick Farm, west of Southam Road, Banbury. Dismissed 11 March 2015

10.12 APP/C3105/A/14/2213263 – Land off Banbury Road, Adderbury, Oxfordshire. Allowed 3 September 2014

10.13 APP/F0114/A/2215930 – Land at Boxbury Hill, Midsomer Norton. Dismissed 20 May 2015

10.14 APP/C3102/A/2203995 – Land west of Warwick Road, Banbury. Allowed 3 March 2014

Folder 5

CD11 Relevant Legal Cases

11.1 Bloor Homes v SoS [2014] EWHC 754

11.2 Hunston v SoS [2013] EWHC Civ 1610

11.3 Gallagher and Lioncourt v SMBC [2014] EWHC 1283

11.4 Oxfordshire CC v SoS [2015] EWHC 186

11.5 Crane v SoS and HDC [2015] EWHC 425

CD12 Evidence Base

12.1 2014 Oxfordshire SHMA – key findings on housing need

12.2 Oxford's housing land availability and unmet need, Dec 2014

12.3 CDC's SHLAA update 2014 extracts

12.4 Corner Farm 2014 SHLAA

12.5 Housing land supply update 2014

12.6 Annual monitoring report 2014 (March 2015) extracts

12.7 Village categorisation update October 2014

12.8 Savills delivery rates on urban extensions final report

12.9 SUE study Hourigan Connolly – analysis and summary

CD13 Planning

13.1 Kirtlington Plan 2011

13.2 Letter from Green Square to John East (landowner) 29 November 2012

13.3 Planning Obligations Draft SPD

13.4 Representations made by the Appellant to Mid Cherwell Neighbourhood Plan

CD14 Sustainability

14.1 Kirtlington Mosaic Report

14.2 UCL Rural Housing affordability Exec summary

14.3 ONS Characteristics of Home workers 2014

14.4 DEFRA rural productivity

14.5 Employment densities 2nd edition 2010 DJD

14.6 National travel survey

14.7 Entec 2004 page 57

CD15 Transport

15.1 Extract from Manual for Streets

CD16 Landscape

16.1 Kirtlington Conservation Area appraisal

16.2 Countryside design summary extract

16.3 Cherwell District landscape assessment extract

16.4 Landscape comments on appeal scheme

16.5 Landscape comments on 75 dwelling scheme

Folder 6

CD17 Additional Documents

17.1 APP/F1610/A/11/2165778 – Highfield Farm, Tetbury. Allowed 13 February 2013

17.2 Cotswold DC and SoS v Fay and Son Ltd [2015] EWHC 3719 (Admin)

17.3 APP/R0660/A/13/2203282 – Land north of Crewe Road, Alsager. Allowed 29 July 2014

17.4 Woodcock Holdings v SoS [2015] EWHC 1173

17.5 Oxfordshire SHMA 2014 extracts

17.6 SHLAA report 2013 extract

17.7 Residential completions and permissions as at 31 March 2015

Separate Document

CD18 Illustrative Cherwell Submission Local Plan



Appeal Decision

Hearing held on 15 December 2015

Site visit made on 15 December 2015

by Sara Morgan LLB (Hons) MA Solicitor (Non-practising)

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

Decision date: 11 February 2016

Appeal Ref: APP/C3105/W/15/3130576

Land north of Green Lane and east of The Hale, Chesterton, Oxfordshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Philippa and Georgina Pain against the decision of Cherwell District Council.
 - The application Ref 15/00454/OUT, dated 5 March 2015, was refused by notice dated 12 June 2015.
 - The development proposed is application for outline planning permission for up to 51 dwellings with vehicular access from The Hale, together with public open space, and surface water retention pond and associated infrastructure. All matters other than the main site access reserved.
-

Decision

1. The appeal is dismissed.

Preliminary

2. The application was in outline, with all matters apart from main site access reserved for future determination.
 3. **The Council's third reason for refusal related to the absence of an undertaking under section 106 to secure affordable housing and to mitigate effects on local community infrastructure.** The appellants have now submitted a completed undertaking, the contents of which have been agreed with the District Council and Oxfordshire County Council.
 4. The undertaking appears not to include a covenant by the appellants to comply with the covenants in the Third Schedule, which casts some doubt as to whether those covenants would be enforceable. However, that is clearly a drafting error which could have been rectified if the development was acceptable in all other respects. Subject to that drafting issue, the undertaking would overcome the third reason for refusal.
 5. The matters which the undertaking seeks to secure are the provision, laying out and transfer of public open space within the development and the payment of contributions towards its maintenance; payment of contributions towards the provision or improvement of community facilities at Chesterton Village Hall; the provision of affordable housing in accordance with requirements of the development plan; payments to Oxfordshire County Council of contributions towards the improvement or extension of Chesterton Primary School and the cost of a new secondary school at Bicester; and the payment of a contribution
-

towards the costs of making a traffic regulation order and constructing a cycleway.

6. I am satisfied that the provisions of the undertaking satisfy the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and in the **National Planning Policy Framework** ("the Framework"), in that the obligations are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. In addition, it was confirmed at the hearing that the contributions intended to be secured by the undertaking would not be affected by the restrictions on the pooling of contributions contained in Regulation 123(3) of the 2010 Regulations. I shall therefore take the contents of the obligation into account in reaching my decision.

Main Issues

7. The main issues are:
 - (i) Whether the Council can demonstrate a five-year housing land supply.
 - (ii) Whether the development would accord with development plan policy relating to the supply of housing.
 - (iii) The effect of the development on the setting of Chesterton and on the character and appearance of the surrounding area.
 - (iv) Whether the development would amount to sustainable development.

Reasons

Housing land supply

8. The appellants originally argued that the Council could not demonstrate a five-year supply of deliverable housing sites, as required by paragraph 47 of the National Planning Policy Framework (the Framework). This was on the basis, it was argued, that the Council in calculating its supply incorporated a buffer of 5% and not the 20% necessary in cases of persistent under-delivery of housing.
9. However, in recent appeal decisions¹ the Secretary of State and a colleague Inspector have both concluded that the Council can demonstrate a five year housing land supply consistent with the policies in the Cherwell Local Plan 2011 – 2031 Part 1 (the 2015 LP). There is no evidence before me to persuade me to reach a different conclusion from the Secretary of State and my colleague Inspector. **Indeed, the Council's 2015 Annual Monitoring Report** (AMR), approved after the hearing on 4 January 2016, shows a slight increase in supply, to 5.3 years from the 5.1 years reported in the previous AMR.

Development plan policy

10. When the Council made its decision on the appeal application the development plan included saved policies of the Cherwell Local Plan 1996 (the 1996 LP). In June 2015, the Council adopted the 2015 LP. This has replaced many of the **policies relied on in the Council's reasons for refusal**, although some saved policies of the 1996 LP remain extant and relevant.

¹ APP/C3105/W/14/3001612 27 August 2015; APP/C3105/A/14/2226552 7 December 2015

11. The 2015 LP strategy is to **meet the district's housing needs by concentrating** development on the two towns of Bicester and Banbury and on a small number of strategic sites outside those towns. This is reflected in policies BSC 1, which sets out the overall housing provision for the district, and in policies Villages 1 and 2, which sets out housing numbers to be provided in the villages of the district. The Local Plan Inspector noted in his report that the aim of the strategy is to alter the local pattern of housing growth, as a disproportionate percentage has taken place in the smaller settlements, adding to commuting by car and congestion on the road network at peak hours. He endorsed this strategy as being the most sustainable strategy for the district, reflecting the guidance in the Framework².
12. As far as the rural area is concerned, policy Villages 1 categorises villages into service villages (Category A), satellite villages and all other villages. Policy Villages 2 provides that "**a total of 750 homes**" will be delivered at Category A villages from 1 April 2014 until 2031 in addition to small site windfalls (ie sites of less than 10 dwellings). Chesterton is a Category A village.
13. The Local Plan Inspector referred in his report to "**around 750 homes in total**", and clearly the 750 figure is not an absolute maximum. But I agree with the Inspector who determined an appeal relating to land off Lince Lane, Kirtlington³ that any significant increase above 750 could lead to unconstrained growth which would result in non-compliance with the 2015 LP strategy for rebalancing housing growth away from the villages and rural areas. The use of the figure of 750 in the policy must have some form of constraining effect on total numbers, otherwise the policy would be meaningless in terms of its contribution towards the overall strategy of the Plan.
14. The position at the time of the Hearing was that 571 dwellings out of the 750 were anticipated to come forward over the next 5 years, leaving 179 to be provided over the whole of the remainder of the plan period. There is no phasing requirement in policy Villages 2, but the strategy in the 2015 LP is for the provision of sustainable development over the whole of the plan period and the whole of the district. If disproportionate numbers of dwellings are permitted in any one settlement, then other settlements where housing sites have yet to be identified may not be able to meet their needs, including affordable housing needs, without undermining the local plan strategy.
15. The Secretary of State in a recent decision relating to land at Sibford Road Hook Norton has considered policy Villages 2. The Secretary of State noted that there was no restriction on the proportion of the 750 dwellings to be provided in any one village, or any phasing provision. He concluded that it would be acceptable for Hook Norton to provide a relatively larger share of the 750 dwellings than other Category A villages, on the basis of its relatively sustainable location⁴.
16. However, Hook Norton is a far larger village than Chesterton, and appears to have a somewhat wider range of facilities. **The Secretary of State's conclusions** relating to Hook Norton cannot be read across to apply also to Chesterton, given the significant differences between those two settlements. Indeed, the implication of his conclusion with regard to Hook Norton is that some other

² Para 212 of Report on the Examination into the Cherwell Local Plan 9 June 2015

³ APP/C3105/W/14/3001612

⁴ APP/C3105/A/14/2226552 at paragraph 12 of the decision.

Category A villages would provide a relatively smaller share of the 750 dwellings. That is consistent with the view of the Kirtlington Inspector that the size of the village in question in relation to others is a factor to take into account in the distribution of development. I see no reason to disagree with that view.

17. If the 750 dwellings required by Villages 2 were to be distributed across the Category A villages pro rata on the basis of population, only 15 dwellings would be required in Chesterton. But in fact Chesterton is already committed to provide 45 dwellings, which have been approved in principle subject to a section 106 undertaking being completed. These will be on land immediately to the north of the appeal site, now known as The Paddocks. If the appeal proposal were permitted as well, then 12% of the 750 district wide total would be provided in one relatively small village. This would be disproportionate.
18. The development at The Paddocks is in addition to 44 dwellings approved on appeal⁵ on land off Green Lane in 2013, which do not count towards the 750. That development is in the course of construction. Together with the developments already permitted, if the appeal proposal were to be allowed there would be a significant increase in the population of the village over a short timescale.
19. Chesterton has a limited range of facilities within the village itself. These include a primary school and nursery, a public house, a village hall and playing fields, and a bus service (25/25A). There are very limited employment opportunities, and most or all of those who live in the village would have to travel to work, to do their shopping and to access most public services.
20. Although the edge of the Bicester urban area is reasonably close to the village, roads are not pedestrian or cycle friendly due to their width and the traffic using them, there are no footways, and consequently cycling or walking to any part of Bicester, including the newly opened park and ride facility just off the A41, is unlikely to be a realistic option for most people.
21. Even as it is, the bus service is very limited, with buses running towards Bicester every 2 hours from mid-morning. There does not appear to be a travel to work service into Bicester. There are more frequent services to **Oxford, an hour's ride away, in the early morning**, and travelling to work in Oxford and back by bus appears to be possible, but during the day the buses revert to being 2-hourly.
22. The bus service is subsidised and not viable without subsidy. There appears to be a strong possibility that the subsidy from Oxfordshire County Council towards the 25 service will be withdrawn, and that would result in the village losing most of its buses. Consequently the likelihood in reality is that future residents of the development would be dependent on the private car for virtually all of their travel needs.
23. I have taken account of the conclusions of the 2009 CRAITLUS⁶ study on the overall sustainability of villages, which scores Chesterton slightly higher than Hook Norton, but that study was completed some 6 years ago. Given the current information relating to bus services I would not expect similar scores to be achieved by Chesterton now.

⁵ APP/C3105/A/12/2183183

⁶ Cherwell Rural Area Integrated Transport and Land Use Study – Halcrow Group Ltd August 2009

24. The Green Lane appeal decision was determined at a time when the now adopted 2015 LP was still emerging, and it appears that Chesterton was then being proposed for, potentially, around 22 new dwellings. The Inspector noted that a regular bus service and close proximity to Bicester contributed significantly to the village's overall sustainability rating. She also noted the scope in the submitted section 106 agreement to maintain and/or improve bus services. She found insufficient grounds for concluding that Chesterton was not a sustainable location for 44 additional dwellings.
25. The position now is that, whilst the proximity of the village to Bicester reduces the *length* of journeys to most facilities, on the basis of the current highly infrequent bus services those journeys are likely to be made by car. That likelihood will be increased if, as appears probable, the current subsidy is withdrawn. This leads me now to conclude that Chesterton would not be a sustainable location for the scale of new development being proposed in this appeal, which of course is additional to that approved at Green Lane, as well as The Paddocks.
26. My overall conclusion on this issue, for these reasons, is that the appeal development would conflict with the overall strategy of the 2015 LP for the provision and location of housing. It would also conflict with policy ESD 1 of the 2015 LP, which requires the impact of development on climate change to be mitigated by, amongst other things, delivering development that seeks to reduce the need to travel and which encourages sustainable travel options.

Character and appearance

27. The appeal site is an arable field, roughly triangular in shape, bounded on one side by The Hale, on one side by Green Lane and an existing cul-de-sac development, and on a third side by The Paddocks. The Paddocks is currently undeveloped, but will be the site of up to 45 dwellings. There was at the time of my visit a substantial hedgerow between The Paddocks and the appeal site.
28. **The appellant has described the proposal as "rounding off", but that description** does not, in my view, reflect the extent to which the development would extend built form into the countryside. Once The Paddocks has been constructed, the north-eastern boundary of the site would abut development. But the other boundaries would in the main be Green Lane and The Hale, both of which have the character of country roads where they adjoin the appeal site.
29. The site has no specific designation in either landscape or environmental terms, but it is at present an arable field, and clearly visually part of the countryside. It is typical in character of the flat landscape which surrounds the village. Because of its open nature it provides a rural and agricultural setting to the village, forming a rural foreground to views from The Hale, over what is at present an open boundary with very little boundary planting to obstruct views. Even when the development of The Paddocks has taken place, it would continue if undeveloped to provide a rural setting to the village.
30. The Hale is, in character, very rural despite the amount of traffic using it at present. On the other side of The Hale is a golf course, but this is itself rural in character despite its somewhat manicured appearance. The lane is only just wide enough in places for two vehicles to pass, and has narrow verges. Typically of a country lane, it has no footway. All of these elements reinforce its rural character.

31. The development would introduce a major change to the character of The Hale. At least in the short to medium term, the views across the open field from the lane would become views of a suburban development. However carefully the development was designed and landscaped, its appearance would be suburban. Whilst boundary planting could, in time, lessen the visual impact of the development, it would not conceal the existence of the development, and indeed the openness of the field and the part that openness plays in the setting of Chesterton would also be lost.
32. The site access needed to provide safe access to the development would also have a visually suburbanising effect, as would the new footway along The Hale required by the highways authority to provide a safe pedestrian access to the village. The lane would no longer provide a rural approach to the village. The existing pleasant rural character of The Hale, and the contribution the site plays in the rural setting of the village, would be lost.
33. The development of The Paddocks does not form any sort of precedent for the development of this site. Policy Villages 2 requires new housing in villages, and it is likely that many of the schemes coming forward will involve development of agricultural land and a significant change in character. But The Paddocks is closer to existing development and is a more visually contained site. It was also permitted at a time when the Council could not demonstrate a 5 year supply of housing land and before the 2015 LP was adopted, so that the policy context, and the weight to be given to the provision of additional housing, was different.
34. Even so, development at The Paddocks, with its associated highway works, will have a suburbanising effect on the northern end of The Hale. Adding development on the appeal site would result in virtually the whole length of The Hale becoming suburbanised, to the significant detriment of its rural character. There is no justification in housing land supply terms for this harm. In addition, in the case of the appeal site, the visual harm would be greater because the site is further from the main part of the village and protrudes to a greater extent into the countryside. The harm would be limited to short or medium distance views, as there are no long-distance views of the site, but nonetheless in those short to medium views the harm would be noticeable and material.
35. I conclude that the development would have a significantly harmful effect on the setting of Chesterton and on the rural character and appearance of the area. It would conflict with saved policy C8 of the 1996 LP, which seeks to avoid sporadic development in the open countryside. This policy is still relevant as it seeks to resist unnecessary development in the countryside, and it has not been rendered out of date by housing land supply considerations. There would also be conflict with policy ESD 13 of the 2015 LP, because it would cause undue visual intrusion into the open countryside, be inconsistent with local character and harm the setting of Chesterton.

Whether the development would amount to sustainable development

36. The Framework contains a presumption in favour of sustainable development. That requires development that accords with the development plan to be approved without delay. I have found that this development would not accord with various provisions of the development plan, as well as with the overall housing strategy in the 2015 LP. That document is very recently adopted, and

- up to date. The Council is able to demonstrate a five-year supply of housing, and so its policies for the supply of housing cannot be said to be out of date. **Consequently, the final bullet point of the Framework's paragraph 14 does not apply.**
37. The Framework identifies three dimensions to sustainable development: economic, social and environmental. Dealing first with the economic role, allowing the development would bring more dwellings forward, which would deliver some economic and employment benefits, as well as New Homes Bonus funding for the Council and Council tax revenue. It would also accord with the intention of paragraph 47 of the Framework to boost significantly the supply of housing.
38. But my conclusion is that the site is not particularly well located for housing and I am not satisfied this is the right place for further development. The 2015 LP has identified and seeks to co-ordinate development requirements, including the necessary supporting infrastructure. This development would not accord with the strategy of the 2015 LP, a strategy which is very recently adopted and which the Local Plan Inspector considered was fully consistent with national guidance in the Framework.
39. Turning to the social aspect of sustainability, whilst the additional housing would contribute towards the need for housing in the district, those needs could at present be met without developing this site. The appellants have referred to the need for Cherwell **to address Oxford City's unmet housing need** in the future. The Local Plan Inspector addressed this issue in his Report in considering the duty to co-operate, and noted that there was as yet no final agreement on how or where the new housing needs of Oxford City would be met. There is no evidence before me as to the extent of that need or how it might be addressed, and it would be speculative and premature to regard this site as being able to meet any of that need in the absence of any such evidence.
40. **The development would contribute towards the district's need for affordable housing**, as 35% of the dwellings would be affordable. But according to the Council there is only a small level of need for affordable housing in Chesterton at the moment, and so the development would not be meeting the affordable housing needs of the village but of the wider district. **The site's poor accessibility and lack of services means that it is a far from ideal location to perform that function.** I also share the concerns of the Parish Council as to the ability of the village to absorb the large cumulative increase in population that would occur if this proposal were to be permitted as well as the other two developments already permitted or approved in principle.
41. The unilateral undertaking (if fully enforceable) would secure contributions towards public space and educational facilities, but those would merely mitigate an otherwise adverse impact from the development on local facilities. The contribution towards a speed limit on The Hale would provide a safer walking route between The Hale and Green Lane. The contribution towards making a new cycleway to link the village with the new park and ride site would assist in improving accessibility and highway safety. But accessing the park and ride site from the village by foot or cycle would still require the use of roads with no footways for a considerable distance, which would be likely to deter many users. The benefits would thus be limited.

42. On the environmental dimension of sustainability, the development would have a harmful effect on the rural character of the countryside. There would be some benefits to biodiversity from the proposed pond and linear swales and additional planting. But the likely reliance of occupiers on the private car for their travel needs would have environmental disbenefits.
43. Taking all these considerations into account, I conclude that the harm the development would cause would significantly outweigh the benefits, and that it would not amount to sustainable development as envisaged in the Framework.
44. I have taken all other matters raised in the representations and at the hearing into account, but none of them lead me to alter my conclusion that the appeal should be dismissed.

Overall conclusions

45. For the reasons given above I conclude that the appeal should be dismissed.

Sara Morgan

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Ms Clare O'Hanlon Carter Jonas, agent for the appellants

FOR THE LOCAL PLANNING AUTHORITY:

Mr Matthew Parry Planning Officer, Cherwell District Council

INTERESTED PERSONS:

DOCUMENTS

- 1 Council's letters of notification and list of persons notified
 - 2 Policies BSC1 and ESD1 Cherwell Local Plan 2015
 - 3 Appeal decision ref APP/C3105/A/14/2226552 Land at Sibford Road Hook
Norton
 - 4 Aerial photograph showing location of proposed cycle link to Park and Ride
site
 - 5 Extract from Halcrow Final Report Cherwell Rural Area Integrated Transport
and Land Use Study
 - 6 Bus timetables for routes 25 and 25A
 - 7 Cherwell Local Plan 2015 Extract 5.2 Key Policies Map: Bicester
 - 8 Unsigned planning obligation relating to the appeal site
 - 9 Chesterton Primary School Pupil Forecasts
 - 10 Oxfordshire CC briefing note re site access arrangements
 - 11 Suggested rewording of condition 11 proposed by the Council
 - 12 Condition relating to refuse storage produced by the Council after the close
of the hearing
 - 13 Completed unilateral undertaking dated 21 December 2015 produced by the
appellants after the close of the hearing
 - 14 Annual Monitoring Report 2015 approved by the Council after the hearing



Appeal Decision

Site visit made on 23 May 2017

by David Spencer BA(Hons) DipTP MRTPI

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

Decision date: 14 June 2017

Appeal Ref: APP/C3105/W/17/3169168

Heatherstone Lodge, Banbury Road, Finmere MK18 4AJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Siteplan UK LLP against the decision of Cherwell District Council.
- The application Ref 16/01209/OUT, dated 20 June 2016, was refused by notice dated 28 November 2016.
- The development proposed is an outline application for residential development.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters reserved but was accompanied by supporting documentation including, amongst other things, a Landscape and Visual Impact Assessment (LVIA), Transport Statement, Interim Travel Plan and Flood Risk Assessment. The appeal site extends to just over 2.3 hectares and whilst scale would be a reserved matter the application form and both main parties have referred to up to 47 dwellings and I have dealt with the appeal on this basis.
3. During the appeal the appellant submitted a signed and dated Unilateral Undertaking (UU) in accordance with Section 106 of the Town and Country Planning Act 1990. The UU presents a number of planning obligations relating to affordable housing provision, open space and play area and various highway related matters.

Preamble and Main Issues

4. The development plan comprises of, amongst other documents, the Cherwell Local Plan 2011-2031 Part 1 July 2015 (the CLPP1) which has been prepared in accordance with the National Planning Policy Framework (NPPF). Policy ESD 1 of the CLPP1 seeks to secure a sustainable distribution of growth in the rural District including reducing the need to travel more generally and in particular the dependency on private cars. Policy Villages 2 of the CLPP1 amplifies how growth will be distributed across the rural areas by setting out that a total of 750 homes will be delivered at Category A villages, including Finmere.
5. I note Policy Villages 2 does not restrict the proportion of the 750 dwellings referred to in this policy that may be built in any one village or control phasing of that figure to 2031. The most recent relevant appeal decision in the District before me (APP/C3105/W/16/3158925) found similar in that Policy Villages 2 does not prescribe a limit for the number of houses to be accommodated at

each village. In principle the development plan sanctions additional housing on sites capable of accommodating 10 or more dwellings in communities such as Finmere. It is clear, however, that when the development plan is taken as a whole, judgements need to be applied on the suitability of each major housing proposal in Category A villages, based on the particular circumstances.

6. Therefore, the two main issues in this appeal are as follows:
 - i. Whether the potential scale of development would be appropriate to the settlement and the facilities it offers, having regard to the relevant policies of the development plan: and
 - ii. The effect of the proposal on the settlement pattern of Finmere and the character and appearance of the surrounding area.

Reasons

Issue 1 - Scale of development

7. Finmere is a small village whose principal facilities comprise of a primary school, a public house and a village hall with sports field and play area. All of these facilities would be within a reasonable and safe walking distance from the appeal site. There is neither a shop nor post office in the village and I have no evidence that there are medical facilities or appreciable employment opportunities. I have very little evidence on the criteria applied in identifying Category A villages and Finmere's selection within this spatial tier. Given the local and national planning objectives to secure sustainable patterns of growth and reducing dependence on the private car, the relatively limited day-to-day service provision in Finmere requires, in my view, a prudent approach to the scale of additional housing development in the village.
8. One of the nearest settlements is Tingewick which has, amongst other things, a shop and post office. At nearly 2 kilometres I am not persuaded that it is within a reasonable walking distance from the appeal site. It is within a cycling distance but the connecting route via Sandpit Hill is primarily at the national speed limit, with little natural surveillance and extensively without footway or lighting. In my view it is not a particularly desirable route, particularly in winter months. Accordingly, I am not persuaded that car dependency would be reduced at the appeal site to access such basic daily services. I have been referred to farm shops at Newton Purcell and Stowe but again both of these are beyond reasonable walking distance and only likely to be attractive to the most ardent cyclist.
9. The nearest towns are Brackley and Buckingham and both provide a good range of services and significant employment. Both towns are well beyond a reasonable walking distance and at the upper margins of a daily cycling commute. Cycle lane infrastructure only applies to the local A421 bypass and does not extend beyond this in either direction to both towns. Accordingly, there are long stretches of the A421 to Buckingham and either the A421 or A422 to Brackley which have no cycle lane or footway, very limited lighting and roundabouts. Whilst my site visit only represents a snapshot, I noted these were busy roads. In my view, taking account of these conditions, cycling would not provide an attractive form of transport to the nearest towns.
10. Public transport via bus in Finmere is limited with evidence on site supporting the Local Planning Authority's (LPAs) submission that some bus services have

now been withdrawn since the planning application was submitted. There remains a limited daily service connecting the village to the towns of Brackley and Buckingham but the frequency is intermittent and not conducive to commuting. In my view, public transport would not provide an appealing or practicable mode for many necessary journeys and not at all in the evenings or on Sundays. Accordingly, I do not find the limited public transport would reduce dependency on the private car at the appeal proposal.

11. The appellant has produced an Interim Travel Plan and submits that travel planning including the use of smarter technologies could reduce the need to travel. Nonetheless, the likely scale of the appeal proposal would result in a sizeable development in a small rural community with limited services and poor connectivity by transport modes other than the private car. In this context I am not persuaded that travel planning measures would have a notable effect on travel behaviour. Consequently the scale of the appeal proposal would be at odds the need to assign most growth to the most sustainable locations where dependency on the car can be reduced.
12. Reference has been made to the latest position in a recent appeal decision (APP/C3105/W/16/3158925) that of the rural allocation to 2031 of 750 homes in Policy Villages 2 some 535 dwellings have been permitted and a further 94 units are in the pipeline. Whilst 750 is not to be regarded as an upper limit, the recently adopted strategy for sustainable development in the CLPP1 actively seeks to manage most housing developments to the more sustainable locations of Banbury and Bicester. The corollary of that is to avoid unconstrained growth in less sustainable locations.
13. Accordingly, a development of up to 47 houses would represent a sizeable amount of the remaining balance of the CLPP1 rural apportionment at an early stage of the plan period. It would do so in a location where the sustainability credentials are currently limited and would leave little plan-led manoeuvrability to sustainably align the proportionate rural growth within other settlements in the Category A villages tier with better sustainability attributes. I therefore find the appeal proposal would prejudice a more balanced distribution of rural housing growth and undermine the sustainable housing strategy in the CLPP1.
14. I therefore conclude that the potential scale of the proposed development at a settlement with few facilities and poor public transport connectivity renders the appeal proposal unacceptable. It would conflict with CLPP1 Policies ESD 1 and Villages 2. It would also fail to accord with the objectives of the NPPF to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and to mitigate and adapt to climate change.

Issue 2 - Settlement pattern and character and appearance

15. Notwithstanding the fact that some modern development has occurred at moderate depth at Chinalls Close and Stable Close, the established and predominant character of Finmere remains a linear settlement reflecting its historical evolution along a shallow valley. Accordingly, large parts of the village are concealed within the fold of the valley such that there is little pronounced sense of settlement in the wider rural landscape. This is typical of settlement pattern in the host landscape national character area.
16. In contrast the appeal proposal would constitute a dislocated limb of development projecting southwards on rising land into countryside at stark

variance to the established linear form. It would also extend by some margin beyond the line created by Stable Close and due to intervening paddocks it would have a limited relationship to the pattern of development at Chinalls Close and at the eastern end of the old Banbury Road. The appeal proposal would largely appear as an incongruously isolated projection of development into the surrounding countryside.

17. The unconnected form of the proposed development from the rest of Finmere would be accentuated by the proposed elongated access via the old Banbury Road. Only occasional dwellings are served from this road which has a particularly rural character at the appeal site. This would serve to emphasize that the appeal proposal would be poorly integrated with the existing settlement and community. I noted the interconnecting footpaths across adjoining paddocks but these would not overcome my concern that the development would harmfully extend away from the village rather than meaningfully integrate with it. It would appear and function as a separate development, harmfully at odds with the established pattern of the village.
18. I accept the proposed development would not be noticeable from within Fulwell Road however it would be visible from numerous rural routes and paths to the south of Finmere. It would involve the loss of undulating countryside whose green, open character positively contributes to the wider landscape containing Finmere. Whilst development is visible in some perspectives of the appeal site, the site itself remains to be read, principally, as part of a wider patchwork of fields across gently rolling hills. I accept the appeal site is only one part of a wider non-valued landscape but the effect at a local level on the loss of an appreciable area of verdant openness would be significantly adverse.
19. The old Banbury Road (the former A421) now forms a rural byway with evidently very little vehicular traffic due to its restricted access and terminated function. Utilising this road to serve a development of up to 47 dwellings would harmfully erode its rural character and its role as a largely undisturbed route into the countryside. The detrimental urbanising effects of the vehicular access and proximity of the appeal proposal on this byway adds to my concerns about the appeal proposal's impact on the rural character of the locality.
20. I agree with the appellant's LVIA that in some views intervening trees and hedges, notably where the former A421 diverges from the bypass road, screen the site and these could be strengthened by further planting. Elsewhere, however, especially from within the old Banbury Road and from the bridleway to the west of the site including the lane to Hill Leys, it is evident that the appeal site occupies rising land above a shallow valley. The rural character of the appeal site is clearly discernible in these close views. Due to the combination of topography and proximity I am not persuaded that additional landscaping would effectively assimilate the proposed scale of development and the residual impacts on the rural character and appearance would be detrimental. Consequently, the appeal proposal would result in a highly visible encroachment into the countryside. This would occur at some distance from the current built settlement edge of Finmere which is not delineated by the rural old Banbury Road or the lane to Hills Ley to the west. Visually, the appeal proposal would have a significant adverse effect on the experience of several rural rights of way which pass close the appeal site.

21. Whilst layout would be a detailed matter, the appeal proposal would also inherently urbanise the experience of using those footpaths that cross the appeal site. These presently provide a pleasant route from village edge into gently undulating countryside. In visual and sensory terms the enclosing effect of the appeal proposal on users of these paths at the appeal site would be of a high magnitude given the nature of the receptors and the effect, from my observations on site, would be at least moderately adverse. This again, adds to my concerns about the harm to the rural character at the appeal location.
22. I therefore conclude that the appeal proposal would result in significant harm to both the settlement pattern of Finmere and the character and appearance of the surrounding area. As such the appeal proposal would be contrary to CLPP1 Policies ESD 13, ESD 15 and Villages 2 and Policies C8 and C28 of the Cherwell Local Plan 1996. These policies seek, amongst other things, to ensure that development positively contributes to the area's character and identity and is sympathetic to its particular context. The proposal would also fail to accord with the objectives of the NPPF to take account of the character of different areas and to recognise the intrinsic character and beauty of the countryside.

Other matters

23. The LPAs decision also set out reasons for refusal relating to archaeology and flood risk. On the former, I see no reason, particularly in light of the updated geophysical work submitted by the appellant as part of this appeal, why the matter could not be appropriately conditioned to accord with Policy ESD 15 of the CLPP1. Similarly, I am satisfied that matters relating to surface water drainage could also be the subject of appropriate conditions thereby satisfying the requirements of Policy ESD 6 of the CLPP1.

Overall planning balance

24. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. As set out above the appeal proposal would conflict with the development plan's approach to sustainable patterns of growth and would result in harm to the settlement pattern of Finmere and the character and appearance of the surrounding area. These conflicts with the development plan are significant factors which weigh heavily against the grant of planning permission.
25. The appellant submits that a five year housing land supply based on the CLPP1 is only just being achieved in the District. I accept, as demonstrated in the appeal decisions submitted by the appellant that a demonstration of a five year housing land supply is not in itself a cap on additional housing development. However such development must be, either, in accordance with the development plan or demonstrably sustainable where the plan is absent, silent or relevant policies out of date.
26. The appellant submits that the scale of housing need and the housing requirement in the CLPP1 is now out-dated given unmet need in the wider Oxfordshire Housing Market Area (HMA). It is evident that Oxford City is unable to meet its housing need in full and as such apportionment to other authorities within the HMA will be required. However, the CLPP1 examination grappled with this matter in the context of the NPPF and it is to be dealt with by way of a short-term review of the Plan, which is in hand. As such, I consider the housing requirement in the CLPP1 and the relevant policies for the

supply of housing, including Policy Villages 2, to be up-to-date and should be accorded full weight. The second bullet point of paragraph 14 of the NPPF is therefore not engaged and the development plan prevails. I now turn to consider whether other material considerations indicate otherwise that permission should be granted.

27. There would be benefits arising from the appeal proposal in terms of adding to the supply of housing and securing rural affordable housing in line with development plan policy. However, these benefits are moderated given there is a five year housing land supply. There would also be modest economic and social benefits from the construction jobs, provision of a play area, additional residents to support existing village facilities and Council Tax and New Homes Bonus receipts. I also find that the appeal proposal, subject to conditions, would not have unacceptable effects on matters such as flooding, highway safety, archaeology and the amenities of nearby residences. Consequently, there would be modest social and economic benefits arising from the appeal proposal.
28. These benefits, however, would be, significantly and demonstrably outweighed by the significant harms identified in respect of the environmental dimension of sustainable development. The NPPF is clear that sustainable development means that economic, social and environmental dimensions should be sought jointly and simultaneously. On this basis, having balanced the factors, the appeal proposal would not constitute sustainable development. It would be contrary to the up-to-date development plan, where the other material considerations before me do not indicate other than dismissing the appeal.
29. In view of this it is not necessary for me to consider further, in detail, the provisions contained in the submitted UU.

Conclusion

30. For the reasons above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Spencer

INSPECTOR.



Appeal Decision

Inquiry Held on 10, 11 and 12 July 2018

Site visit made on 12 July 2018

by Kenneth Stone BSc Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 September 2018

Appeal Ref: APP/C3105/W/17/3188671

Land off Blackthorn Road, Launton OX26 5DA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Manor Oak Homes (Mr William Main) against the decision of Cherwell District Council.
- The application Ref 17/01173/OUT, dated 24 May 2017, was refused by notice dated 4 August 2017.
- The development proposed is the development of up to 72 dwellings with associated large area of Public Open Space.

Decision

1. The appeal is allowed and outline planning permission is granted for the development of up to 72 dwellings with associated large area of Public Open Space at Land off Blackthorn Road, Launton OX26 5DA in accordance with the terms of the application, Ref 17/01173/OUT, dated 24 May 2017, subject to the conditions contained in the schedule at the end of this decision.

Procedural matters

2. The application was submitted in outline with all matters except for access to be reserved for future consideration. The application was supported by various plans and these are identified in the final signed Statement of Common Ground (CDC2) at paragraph 4. It was confirmed that the Feasibility layout, as it is referred to there (the drawing title on the plan is illustrative layout) was for illustrative purposes only to demonstrate one way in which the site could be developed.
3. During the conditions session it was also confirmed that JPP Consulting Plan T7866PM-01-A, from the Transport Assessment revision A, formed part of the plans for which permission was sought. The Council originally refused planning permission for five reasons; by the start of the Inquiry the Environment Agency and the Oxford County Council Drainage Officer withdrew their objections. This resulted in the Council no longer pursuing its objections on grounds of flooding or drainage. The Council confirmed that if a satisfactory obligation was provided to ensure the provision of infrastructure necessary to serve the development it would no longer contest that issue.
4. A completed and executed planning obligation in the form of a planning agreement pursuant to section 106 of the Town and Country Planning Act 1990

was provided by the close of the Inquiry. I return to the planning obligations secured below.

5. The revised National Planning Policy Framework (the Framework) was published on 24 July 2018 and the parties were given the opportunity to comment on the relevance this will have on their case.
6. The Government published a Written Ministerial Statement in relation to Housing Land Supply in Oxfordshire. I have had regard to the Statement.

Main Issues

7. The main issues are:
 - Whether the location and scale of the proposed development would conflict with the development plan's strategy for the distribution of housing in the district; and
 - The effect of the proposed development on the character and appearance of the settlement of Launton and the surrounding area.

Reasons

8. The development plan for the area comprises the saved policies from the Cherwell Local Plan 1996 (CLP 1996) and the Cherwell Local Plan 2031 part 1 (CLP 2031 (part 1)).
9. The Council is in the process of a partial review of the CLP 2031 (part 1) to address the apportionment of Oxford's identified unmet need to the surrounding district Councils. The Council submitted the Local Plan Part 1 Partial Review (Oxford's Unmet Housing Need) to the Secretary of State on 5th March 2018. This has not been the subject of public scrutiny. Whilst the Council may have agreed the level of unmet need it is to receive from Oxford in terms of the proportionate apportionment in the context of this appeal the review carries only little weight at this point in time.
10. Reference is made in the CLP 2031 (part 1) to the Cherwell Local Plan 2031 part 2 (CLP 2031 (Part 2)) however this appears to be in the very early stages of preparation with an issues consultation paper being published in January-March 2016. I have no evidence before me of any further progress on that plan and therefore I am of the view it carries very little weight in the determination of this appeal.

Location and scale of development

11. Underpinning the CLP 2031 (part 1) is a spatial strategy for Cherwell District which focusses the bulk of the proposed growth in and around Bicester and Banbury. It limits growth in the rural areas, directs it towards larger and more sustainable villages and aiming to strictly control development in open countryside.
12. Policy BSC1 identifies that 22,840 dwellings will be provided for between 2011 and 2031; distributed between Bicester, Banbury and the Rest of the District. A significant proportion of the 'rest of the district' figure relates to a strategic allocation at RAF Upper Heyford, the remainder distributed through the categorisation of Villages in Policy Villages 1: Village categorisation and Policy Villages 2: Distributing Growth Across the rural areas. The plan seeks to alter

the local pattern of recent housing growth, as a disproportionate percentage (almost half) has taken place in smaller settlements, adding to commuting by car and congestion on the road network at peak hours. The number of new homes outside the two main towns would be around a quarter of the overall plan total.

13. Launton is identified as a category A - service village in Policy Villages 1. Policy Villages 2 confirms that over the plan period a total of 750 homes will be delivered at category A villages. There is no further distribution of delivery within the villages and there is no timeframe or trajectory for delivery associated with the overall figure. All parties accept that the headline figure is not a ceiling and that conflict would only arise if there was a material increase over and above the identified 750 dwellings. This is consistent with the Framework's approach to significantly boost the delivery of housing.
14. The 2017 Annual Monitoring Report for the district identifies that a total of 664 dwellings have been identified for meeting the Policy Villages 2 requirement. By March 2017 there had been 103 completions on those sites. The proposed development would make provision for up to a further 72 dwellings taking the total to 736 (664 + 72). The 750 figure in the policy would not be breached. Furthermore the 750 figure refers to dwellings delivered, of which to date there are only 103, substantially below the 750 figure. As a matter of fact allowing this appeal would not breach this aspect of Policy Villages 2, I return to the criteria based aspects below.
15. My attention is drawn to the dismissal of an appeal in 2015¹ on the grounds that the provision of 95 homes in one location at that early stage of the local plan period would leave little scope for development in other category A villages either in terms of numbers or timing and would thus not be in accordance with the Plan's housing strategy. This was shortly after the plan had been adopted in 2014. Matters have moved on and information is available to consider whether performance across the rest of the district is meeting the aspiration of the strategy.
16. This proposition has been taken forward in more recent appeal decisions² however none of these have been the subject of the full scrutiny of Public Inquiry. Further, there are also significant site specific differences between those decisions and this appeal related to heritage concerns, sustainability and harm to character and appearance.
17. Whilst the level of planning permissions and resolutions to approve is approaching 750 the number of units built is still substantially below that figure. That equates to a delivery rate of some 34 units per annum based on the delivery since 2014. If that were continued the delivery would be too low to reach 750 in the plan period. The latest AMR figures demonstrate that completions and planning permissions outstanding in the two principle towns of Bicester and Banbury amount to in the region of two thirds of housing delivery. The remaining one third being delivery in the rural areas, a substantial proportion of which is at a strategic allocation location. This demonstrates that the overall intention of the strategy to deliver housing in the most sustainable locations of the main towns and strategic allocation and to limit development in the rural areas is succeeding. The proportion of housing being delivered at the

¹ APP/C3105/W/14/3001612

² APP/C3105/W/16/3158925, App/C3105/W/17/3169168 and APP/C3105/W/17/3187461.

- smaller villages is significantly less than half of delivery as was identified as a main driver for the development of the strategy.
18. The 750 figure is not an upper limit and it would require a material exceedance to justify arriving at a conclusion the policy was being breached. Whilst the figure is moving towards the actual figure there is still some headroom available. Time has moved on and we are now further into the plan period, any permissions that are now granted will take time to produce the delivery of housing and therefore it is likely that the delivery of the units identified in this appeal would not arise until the plan was in the second half of its term. It is in my view no longer appropriate to characterise this as early in the plan period. The CLP 2031 (part 2) plan has the potential to review the implications of these policies or a formal review of the part 1 plan could come forward.
19. On the basis of the evidence before me I am satisfied that the proposed development would not lead to a breach of this aspect of Policy Villages 2 or the overall plan strategy.
20. In any event, there is evidence to demonstrate that housing delivery is strengthening. That it is focussing in the main towns of Bicester and Banbury and the strategic allocation and that the contribution from the more sustainable villages (category A villages) in the rural area to the overall delivery of housing is achieving the plans overall need in a manner consistent with the strategy. Whilst I accept that the delivery of all of the level of housing anticipated through Policy Villages 2 could reduce the flexibility later in the plan period I have been provided with no evidence that the granting of permission here would prevent development at a more sustainable location in another Category A village.
21. Indeed it is no part of the Council's case that Launton is not a sustainable village and does not have the services and facilities to meet the day to day needs of the future residents of the proposed development. The number of units proposed would not be excessive in relation to the services and facilities available in the village. The village contains a number of facilities including two pubs, a convenience store, farm shop, primary school, community hall and small business enterprises. It is categorised as a Category A village which are those villages in the district with the highest sustainability credentials in the rural area. The village is also well served by public transport. The additional demands placed on existing facilities would be addressed through the provision of the planning obligation. The scale of the development would not substantially detract from the character of the village as I conclude below. The increase in the number of new homes would not therefore result in materially harmful effects.
22. Any future developments at Category A villages in the future would need to be considered in the context of the circumstances pertaining at that time which would include, but not be limited to, matters such as whether the 750 figure had been materially exceeded, the specific needs for that development in relation to the village and the effect on the overall settlement strategy.
23. On the basis of the above conclusions I am satisfied that the location and scale of the proposed development would not conflict with the development plan's strategy for the distribution of housing in the district. The development would not conflict with policy BSC1, Policy Villages 1 or Policy Villages 2 and would

not undermine the overall strategy of the development plan, with which it would comply.

Character and appearance

24. The Council's reason for refusal alleges that the application contained insufficient, information to enable it to assess the impact of the proposed development on its surroundings.
25. I have had regard to the advice in the Planning Practice Guidance with regard to Design and Access Statements (DAS) and to the two court cases³ submitted in Closing by the appellant to address the concern of the adequacy of the DAS. Given that the application is in outline with all matters reserved, other than access, much of the detailed layout, design and appearance are matters more properly considered at reserved matters stage. With the application before me the focus is on whether the scale and quantum of development could be satisfactorily accommodated on the site. As the PPG advises DASs are concise reports to provide a framework for applicants to explain how the proposed development is a suitable response to the site.
26. The PPG goes on to advise that the DAS must explain the design principles and concepts and demonstrate the steps taken to appraise the context and how the design takes that context into account. There is no prescriptive formulaic sequencing or ordering of steps that are to be undertaken or how these are to be ordered or reported in the final report. Given the outline nature of the application I am satisfied that there is sufficient depth and detail of analysis of the site and context and how the scheme has taken these matters on board in reaching its proposed outcome. The illustrative master plan is also just that, illustrative as one way in which the scheme could come forward, and is not set in stone.
27. The Council's witness Mr Stock confirmed under cross examination that he accepted that there was sufficient information before the Inquiry to enable me to make a proper assessment of these matters. I am satisfied that the amended DAS, the proofs of evidence of the various witnesses, the additional information submitted during the Inquiry including APP 8, along with my visits to the site and surrounding area enable me to come to an informed conclusion on the effect of the development on the character and appearance of the surrounding area.
28. Launton is a category A larger village in the rural area of the district. Its historic form was based on a linear settlement pattern focused predominantly along Station Road and West End. There was some consolidation of built form around the cross roads created by Blackthorn Road and Bicester Road. There remain a number of historic buildings fronting primarily onto Station Road and West End with a scattering along Bicester Road and a number at the junction of Blackthorn Road and Station Road. The historic core and buildings are identifiable and visible along the main roads and it is from these vantage points that the visual contribution the historic buildings make is most readily apparent. To the north and west Launton has significantly increased in density, depth of development and form which readily detaches the historic linear form

³ Two High Court Decisions: Michael Jonathan Parker v Secretary of State for Communities and Local Government and Rother District Council and Peter bull [2009] EWHC 2330 (Admin). & [2011] EWHC 2325 (Admin) the Queen on the application of Bizzy B Management company Limited v Stockton-on-Tees Borough Council v Python Properties (A Firm).

- of the village from the countryside and surrounding fields. Similarly to the south much of the physical relationship to the rural hinterland has been interrupted with more modern development.
29. The appeal site is located to the east and south of Station Road. The site is open fields. However the site is not readily appreciated or viewed from Station Road and there are limited views when the historic core and field pattern surrounding the village would be read in the same views. There have been some modern developments to the rear of these properties in Station Road including at The Green which further detaches the rural fields from the historic core of the settlement.
30. Approaching the village from the south along Blackthorn Road there is modern development on one side of the road up to the point where the entrance feature demarking the entrance to the village is located. On the opposite side of the road the land is also developed, in the form of a pumping station and water works. The proposed development would abut the built development of the edge of the village and provide for a significant area of retained open space. The site is reasonably well screened from the wider countryside, with significant areas of tree planting and hedge boundaries. In this regard I am satisfied that, designed with care, the proposed development would not be unduly assertive or excessively intrusive such that it would undermine the intrinsic character and beauty of the countryside at this location. A suitable layout arrangement could address Blackthorn Road in a manner consistent with the existing development fronting the road. The development would not, in my view, result in the appearance that the village boundary had appreciably extended into the open countryside as the development would be within the village entrance demarcation and would be well contained by landscape features.
31. The development is proposed with a single point of access. It would therefore be a cul-de-sac of some 72 units. The illustrative layout suggests this would be with a principle spine with roads off it. I saw a number of Culs-de-sac in the village. Whilst none contained as many dwellings as that proposed in this scheme, there were a number with a similar pattern (single point of entry and accesses off a central spine) and a comparable size, eg at Sherwood Close (57 properties) and Skinner Road and Ancil Avenue (46 properties). I do not consider that the scale of development would inevitably lead to an excessively complex road layout.
32. It is no part of the Council's case that the setting of individual listed buildings would be affected by the proposed development. Further, the Council does not object to the effect of the development on landscape character. The design and appearance of the buildings, the materials to be used, the layout of the scheme are all matters that would be considered at the reserved matters application. I have neither seen nor heard anything to suggest that a competent architect could not design a scheme that would be in keeping with its surroundings.
33. I am satisfied that the provision of a Cul-de-sac including development fronting Blackthorn Road could be made to reflect the character and appearance of the surrounding area and the village. There would be change, that is not in dispute; a field would be developed for housing but that would not in my view result in material harm to the character and appearance of the village. There is

no identified landscape harm and any residual impact can be addressed by condition, the reserved matters can ensure the design and appearance of the scheme is compatible with and reflects local distinctiveness.

34. For the reasons given above I conclude that the proposed development would not harm the character and appearance of the settlement of Launton and the surrounding area. Consequently the proposal would not conflict with policies ESD15 of Policy Villages 2 in the CLP 2031 (part 1) or policies C28 and C30 in the CLP 1996. The development would therefore comply with the development plan in these regards.

Planning Obligations

35. The appellant has provided a planning obligation in the form of a deed of agreement under section 106 of the Town and Country Planning Act 1990, Section 111 of the Local government Act 1972 and section 1 of the Localism Act 2011.
36. Overall the Obligations of the agreement are related to requirements of development plan policies and are all necessary to make the development acceptable in planning terms. They are all, furthermore, 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 where appropriate. The planning obligations therefore comply with the tests set out in the Framework, the advice in the National Planning Practice Guidance and with Regulation 122 of the CIL Regulations 2010 (CIL). There is no conflict with CIL Regulation 123(3).

Other matters

37. At the outset of the Inquiry in my opening I identified whether the Council can demonstrate a five year supply of deliverable housing sites as a main issue to address. I dealt with housing land supply as a discreet topic and conducted this as a hearing style discussion session. I have taken account of the latest Written Ministerial Statement in relation to Housing Land Supply in Oxfordshire. However, given my conclusions in respect of the main issues above, if I accept the Council's position on its Housing Land Supply, my overall conclusion would be that the proposals accord with an up-to-date development plan. They would therefore benefit from the presumption in favour of sustainable development under paragraph 11 c of the Framework. This overall conclusion would not change taking on board the governments WMS on Housing Land Supply in Oxfordshire. It is therefore not a matter on which my decision turns.
38. The proposed development would provide for market housing and affordable housing. The positive contribution to the supply and delivery of housing in the district given the Government's objective of significantly boosting the supply of homes (Framework paragraph 59) is a benefit of significant weight. The District has identified it has a high need for affordable housing. Securing the provision of affordable housing, through the planning obligation, therefore is also a significant positive benefit of the scheme.
39. The appeal scheme identifies a significant area of public open space the scheme would include details to enhance the biodiversity and conservation target area landscape qualities in the area. In this regard this would assist in fulfilling policy ESD11 and a minor benefit is derived from the scheme as a

result of the enhancements to biodiversity that could be secured through the development of the site.

40. The additional traffic generated by the proposed development would not result in material harm to highway safety. There is no objection from the Highway Authority and the design of the access has been accepted on the basis of the information submitted. There was no evidence to demonstrate that there would be significant inconvenience or hazard that would be caused by the proposed access location or the additional traffic that would pass through the cross roads in the centre of the village.

Conditions

41. A list of draft conditions was provided by the Council (CDC1) and updated during the Inquiry (CDC 6). I have considered the conditions in the context of the advice in the Planning Practice Guidance and the model conditions set out in the annex (which remains extant) to the otherwise now cancelled Circular 11/95, the use of conditions in Planning Permissions. A number of the suggested conditions are in effect informative or advisory indicating the content of future submissions under the reserved matters, or cover matters that fall squarely within the ambit of the reserved matters. Unless it is necessary to restrict the discretion of both applicant and local planning authority at this outline stage, I have not imposed such conditions, as the submission of details/reserved matters would be the subject of evaluation.
42. Conditions 1 to 3 are the standard outline conditions and there is no reason to vary these other than removing access as a reserved matter as that was the basis of the application. Conditions 4 through to 8 address matters related to access, parking and travel. They are required to ensure the development is satisfactorily accessed and that suitable parking provision (both car and cycle) is provided and maintained on site and to ensure that the site is accessible by a range of modes of transport.
43. Conditions 9 through to 11 are required to ensure that the development is safe from flooding and does not result in an increased risk of flooding elsewhere. Launton is not connected to mains gas. Conditions 12 and 13 are required to avoid an excessive proliferation of above ground fuel tanks that could compromise the design and appearance of the final development. It could be argued that this could be left to the reserved matters but it is an important design principle and the imposition of such a condition now will ensure this matter is properly addressed at an early point in the consideration of the design of the detailed scheme.
44. Condition 14 will ensure that adequate regard is paid to the potential for buried remains and condition 15 ensures that appropriate consideration is given to securing the biodiversity enhancements and on the basis of policy ESD11. A Construction Environment and Management Plan (condition 16) is required to ensure the site is safely accessed during development, to safeguard the living conditions of surrounding residents and to ensure the development is carried out in a neighbourly manner. The site includes previously developed land and conditions 18 through to 21 address the potential for the site to be contaminated and the necessary steps to be undertaken in the event contamination is encountered. Condition 22 requires the removal of an existing residential dwelling unit to ensure the satisfactory completion of the proposed development.

45. Conditions 4, 10, 11, 12, 14, 15, 16, 17, 18, 19 and 22 are 'pre-commencement' form conditions, or include such elements, and require certain actions before the commencement of development. In all cases the matters they address are of an importance or effect and need to be resolved before construction begins.

Overall conclusions

46. I have concluded that the proposed development would accord with the strategy and objectives of the CLP 2031 (part1) and that there would be no conflict with policies BSC1 or Policy Villages 1 or Policy Villages 2 in that plan in respect of the scale and location of the development. Moreover, I have concluded that there would be no material harm to the character and appearance of the village or the surrounding area and therefore no conflict with policy Villages 2 or ESD15 in the CLP 2031 (Part 1) or policies C28 and C30 in the CLP 1996. On this basis I conclude that the proposed development would be in accordance with the development plan as a whole and as such would amount to sustainable development in the context of paragraph 11 of the Framework for which there is a presumption in favour of.
47. Section 38(6) of The Planning and Compulsory Purchase Act 2004 requires that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
48. Even if I were to accept the Council's position in terms of its five year housing land supply, that there was a 5.4 year supply, that would not alter my conclusions in respect of the development plan, the presumption in favour of development or the section 38(6) position. The issue of housing land supply therefore is not determinant in this appeal.
49. The proposal accords with the development plan and there are no other material considerations that indicate a decision otherwise would be appropriate. The scheme benefits from the presumption in favour of development as set out in the Framework. I therefore will grant planning permission without delay.
50. With the imposition of the above mentioned conditions and for the reasons given above, I conclude that the appeal should be allowed.

Kenneth Stone

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Gwion Lewis	Counsel, instructed by Amy Jones, Solicitor Cherwell District Council
He called	
Yuen Wong BA(Hons) MA MRTPI	Principal Planning Policy Officer Cherwell District Council
Nathaneal Stock BA(Hons) DipTP MRTPI	Team Leader General Developments Team Cherwell District Council

FOR THE APPELLANT:

Paul Tucker (and Sarah Reid)	Queens Counsel, instructed by Huw Mellor
He called	
Huw Mellor BA(Hons) MRTPI	Partner Carter Jonas LLP.
Ashley Thompson BA(Hons) PGDip ARCH MA ARB RIBA	Director ATA (Architecture) Ltd.
Jacqueline Mulliner BA(Hons) BTP(Dist) MRTPI	Director and Head of National Planning Terence O'Rourke Ltd.

INTERESTED PERSONS:

Mr Robert Armstrong	Local Resident
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DOCUMENTS SUBMITTED BY CHERWELL DISTRICT COUNCIL (CDC)

CDC1	Draft List of suggested conditions
CDC2	Signed copy of the Statement of Common Ground
CDC3	Opening submissions on behalf of the Council
CDC4	Extract of Planning Supporting Statement by Barwood Strategic Land II LLP in respect of Land West of Bloxham Road, Banbury
CDC5	Home extensions and Alterations – Design Guide for Householder Applications March 2007 Cherwell District Council
CDC6	Updated Draft list of suggested conditions
CDC7	Update from Oxford County Council on its submissions in respect

	of Planning Obligations and compliance with Regulation 123 of the Community Infrastructure Levy (CIL) Regulations 2010.
CDC8	Copy of Developer Contributions Supplementary Planning Document (SPD) February 2018 published by Cherwell District Council.
CDC9	Closing submissions on behalf of Cherwell District Council

DOCUMENTS SUBMITTED BY the APPELLANT (APP) – MANOR OAK HOMES

APP1	List of appearances for the appellant
APP2	Unsigned final draft of the Statement of Common Ground
APP3	Draft of Final version of the Planning Obligation agreement
APP4	Schedule of developer responses to the 2017 AMR comprehensive review of sites (on disputed sites only)
APP5	Pack containing details of consultation on amended illustrative amended plan carried out by the appellant.
APP6	Revised Flood Risk Assessment (Revision E: June 2018 R-FRA-T7866PM-01-E) by JPP Consulting.
APP7	Opening submissions on behalf of the appellant
APP8	Aerial photograph with existing Cul-de-sac and dwelling numbers identified.
APP9	Extract from Planning Policy Guidance on Design and Access Statements.
APP10	Letter from one of the site owners to confirm the tenancy arrangements related to the existing 'caravan' on site.
APP11	Certified copy of the planning obligation by deed of agreement
APP12	Closing submissions on behalf of the appellant (including two attachments of cited court cases).

Schedule of conditions for appeal APP/C3105/W/17/3188671

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "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.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) Prior to the commencement of the development hereby approved, full details of both means of access between the land and the highway, including, position, layout, construction, drainage and vision splays shall be submitted to and approved in writing by the Local Planning Authority.

The means of access shall also include:

- lengths of footway on the north side of Blackthorn Road in either direction from the site access
- two uncontrolled crossing points
- alterations to the existing traffic calming and village entry treatment

Thereafter and prior to the first occupation of the development, the means of access shall be constructed and retained in accordance with the approved details.

- 5) No dwelling shall be occupied until car parking space(s) to serve that dwelling have been provided according to details that have been submitted to and agreed in writing by the Local Planning Authority. All car parking shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.
- 6) No dwelling shall be occupied until cycle parking space(s) to serve that dwelling have been provided according to details that have been submitted to and agreed in writing by the Local Planning Authority. All cycle parking shall be retained unobstructed except for the parking of cycles at all times thereafter.
- 7) Prior to occupation of the first dwelling hereby approved, a Residential Travel Plan Statement shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the Travel Plan shall be operated and reviewed in accordance with details to be included in the agreed Travel Plan Statement.
- 8) Travel Information Packs, the details of which are to be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the development, shall be provided to every resident on first occupation of each dwelling.

- 9) The development permitted by this planning permission shall be carried out in accordance with the Flood Risk Assessment (FRA) Proposed Residential Development, Land off Blackthorn Road, Launton, Bicester, Oxfordshire by JPP Consulting Civil and Structural Engineers, Revision E, June 2018 R-FRA-T7866PM-01-E and the following mitigation measures detailed within the FRA:
- There shall be no built development within the 1% annual probability (1 in 100) flood extent with 35% allowance for climate change; and
 - Finished floor levels will be located a minimum of 150mm above the predicted flood level.
- The mitigation measures shall be fully implemented prior to occupation of the dwellings to which they relate and in accordance with the timing/phasing arrangements embodied within the scheme.
- 10) No development shall take place until a scheme for the provision and management of a minimum 10m buffer zone alongside the Launton Brook shall be submitted to and agreed in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme. The buffer zone covered by the scheme shall be free from built development (including lighting), domestic gardens, footpaths and formal landscaping.
- The scheme shall include:
- Plans showing the extent and layout of the buffer zone;
 - Details of any proposed planting scheme (for example native species);
 - Details of the timing and implementation of the scheme;
 - Details demonstrating how the buffer zone will be protected during development and maintained over the longer term including proposed financing, the body responsible for management and production of a detailed management plan.
- 11) Prior to the commencement of the development hereby approved, a surface water drainage scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development. . The scheme shall also include:
- Discharge Rates
 - Discharge Volumes
 - Maintenance and management of SUDs
 - Sizing of features – attenuation volume
 - Infiltration tests to be undertaken in accordance with BRE365
 - Detailed drainage layout with pipe numbers

- SUDS (list the suds features mentioned within the FRA to ensure they are carried forward into the detailed drainage strategy)
- Network drainage calculations
- Phasing plans
- Flood routes in exceedance (to include provision of a flood exceedance route plan).

The scheme shall be implemented in accordance with the approved details

- 12) Prior to the commencement of development details of the services and energy infrastructure 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 prior to the occupation of any dwelling hereby permitted.
- 13) Notwithstanding any provisions contained within the Town and Country Planning (General Permitted Development Order) 2015 (and any Order or Statutory Instrument amending, revoking or re-enacting that order), No above ground fuel tanks to serve the proposed development shall be provided unless with the prior written approval of the local planning authority.
- 14) An archaeological investigation shall be completed in accordance with a Written Scheme of Investigation which shall first be submitted to and approved in writing by the Local Planning Authority prior to any demolition on the site and the commencement of the development.
- 15) Prior to the commencement of the development hereby approved, including any demolition, and any works of site clearance, a method statement for enhancing Biodiversity on site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.
- 16) Prior to the commencement of the development, a Construction Environment and Traffic Management Plan (CEMP), which shall include details of the measures to be taken to ensure construction works do not adversely affect residential properties adjacent to or surrounding the site together shall be submitted to and approved in writing by the Local Planning Authority. The CEMP will include a commitment to deliveries only arriving at or leaving the site between 0930 and 1630. Thereafter the development shall be carried out in accordance with the approved CEMP.
- 17) Prior to the commencement of the development hereby permitted a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model shall be 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 shall be 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.

- 18) If a potential risk from contamination is identified as a result of the work carried out under condition 16, 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.
- 19) If contamination is found by undertaking the work carried out under condition 17, 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.
- 20) If remedial works have been identified in condition 18, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 18. 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.
- 21) 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.
- 22) No development subject of this permission shall commence until the mobile home that is the subject of certificate of lawfulness 09/01814/CLUE dated 18 March 2010, and associated structures, have been removed from the site.

END