

**Gladman Developments Ltd**

**Land east of Sibford Road**

**Hook Norton**

**Cherwell District**

**Planning Statement**



**October 2014**

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# 1 EXECUTIVE SUMMARY

- 1.1.1 Cherwell District Council recognises and acknowledges that the Council cannot demonstrate a deliverable five year supply of housing land. The Council published a Housing Land Supply Update June 2014 which was published indicating that the five year supply of deliverable sites for 2014-2019 is now 3.4 years (compared to 4.9 years in the 2013 AMR), including the need to adopt a 20% buffer due to persistent under delivery.
- 1.1.2 Paragraph 47 (1st bullet) of the National Planning Policy Framework (NPPF) states that local planning authorities need to “*meet the full objectively assessed needs for market and affordable housing in the housing market area ...*” The Councils’ full objectively assessed needs for the district were published in the Oxfordshire Strategic Housing Market Assessment (SHMA) final report in April 2014.
- 1.1.3 The Hunston Court of Appeal Judgement (12 December 2013) has also brought further clarity in considering the continued use of the RS (now revoked) derived housing figures in calculating the supply position where the housing requirements for the relevant area have not yet been established by the adoption of a Local Plan, produced in accordance with the policies in the Framework, such as is the case in Cherwell.
- 1.1.4 Adopting the Court of Appeal Judgement in the Hunston case, it would be a mistake to use a figure for housing requirements below the full objectively assessed needs figure until such time as the Local Plan process comes up with a constrained figure. The Oxfordshire SHMA has identified a proposed figure between 1090-1190 dwellings per year for the Cherwell district for the period 2011-31. Gladman are pleased to see the Authority are proposing to deliver the full OAN as outlined within the Main Modifications of the Local Plan, in light of the suspension of the examination in public.
- 1.1.5 Regardless of which housing target (SHMA, CLG Household Projections or RSS) is used for the district, the Council are not able to demonstrate a five year deliverable housing supply and the claimed supply is considered to overstate the deliverable supply.
- 1.1.6 Accordingly, this is a case where the housing supply and housing restraint policies of the saved Local Plan are out of date because:
- The Council cannot demonstrate an up-to-date five-year supply of deliverable housing sites and has a substantial shortfall in housing supply;
  - The changed regional and national policy context since the saved Local Plan policies were prepared.
- 1.1.7 Consequently, any conflict with the saved housing supply related policies in the saved Local Plan should be afforded limited weight in the determination of the application.

- 1.1.8 In the absence of an appropriate and up to date policy framework to deliver the necessary housing requirements of the District (and a deficient five year deliverable housing supply) there is an urgent need to release suitable greenfield sites, such as this in Hook Norton, in order to meet the housing shortfall, contributing towards a five year deliverable supply and significantly boosting the supply of housing.
- 1.1.9 The proposals will make an important contribution to meeting the shortfall in housing land supply and this is an important material consideration to which significant weight should be attached.
- 1.1.10 The proposals constitute sustainable development in the context of the three dimensions of sustainable development; economic, social and environmental.
- 1.1.11 The application also includes a significant number of material benefits, which would improve the application site and the surrounding area:
- 35% affordable housing in a district which has historically under provided;
  - Improved pedestrian links to the Countryside to the west of the site, and the existing Public Right of Way (PROW);
  - 0.50 hectares of green infrastructure including a significant level of public open space and a Locally Equipped Area of Play (LEAP);
  - The introduction of a balancing pond and Sustainable Drainage Systems (SUDS) to deliver a 'betterment' scheme for surface water to benefit the local area;
  - The proposed development would be set within a strong landscape framework,
- 1.1.12 The application is accompanied by a comprehensive set of supporting reports. None of these have identified any adverse impacts that would significantly and demonstrably outweigh the benefits of housing delivery against an acute housing supply deficiency.
- 1.1.13 In these circumstances, and applying paragraph 49 of the Framework, the application proposals should be considered in the context of the presumption in favour of sustainable development and the relevant policies for the supply of housing should not be considered up to date. In these circumstances, the Framework confirms development should be approved 'without delay'.

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## 2 INTRODUCTION

### 2.1 Context

- 2.1.1 This Planning Statement forms part of the suite of documents submitted to Cherwell District Council (CDC) by Gladman Developments Ltd (GDL) in support of their application for **Outline Planning Permission for Residential Development** on land east of Sibford Road, Hook Norton.
- 2.1.2 A screening request to determine whether the planning application required an Environmental Impact Assessment (EIA) was submitted to CDC on 16<sup>th</sup> May 2014.
- 2.1.3 This Planning Statement has been prepared by GDL in support of these proposals.
- 2.1.4 The proposals respond directly to the identified need to deliver additional homes in Cherwell District.
- 2.1.5 The Development Framework Plan and Design & Access Statement demonstrate how the site will deliver a sustainable high quality residential development.

### 2.2 The Application

- 2.2.1 This application seeks Outline Planning Permission with all matters, except access, reserved for a residential development comprising:
- Up to 54 Dwellings, of which 35% will be affordable homes
  - Highway and Associated Infrastructure Works, including Pedestrian Links, and drainage attenuation.
  - Significant areas of Formal and Informal Public Open Space including a formal play area.
  - Landscaping
  - Commuted sums for necessary community infrastructure (e.g. Education)

## 2.2.2 The Application Documentation consists of the following:

*Table 1: Application Contents*

1	Application Covering letter Application Form and Certificates	Gladman Developments Ltd
2	Location Plan (including Application Red Line)	Gladman Developments Ltd
3	Topographical Survey Drawing	JLP Surveys Ltd
4	Development Framework Plan (Block Plan)	FPCR Environment & Design Ltd
5	Design & Access Statement	FPCR Environment & Design Ltd
6	Landscape & Visual Assessment	FPCR Environment & Design Ltd
7	Transport Assessment	Hydrock
8	Travel Plan Framework	Hydrock
9	Ecological Appraisal	FPCR Environment & Design Ltd
10	Arboricultural Report	FPCR Environment & Design Ltd
11	Phase 1 Site Investigation Report	Hydrock
12	Flood Risk Assessment (FRA)	Hydrock
13	Foul Drainage Strategy	Utility Law Solutions
14	Air Quality Assessment	Wardell Armstrong
15	Noise Assessment	Wardell Armstrong
16	Archaeology Assessment Report	CgMs
17	Energy & Sustainability Statement	Gladman Developments Ltd
18	Statement of Community Involvement	Gladman Developments Ltd
19	Supporting Planning Statement including: Utilities Appraisal Affordable Housing Statement	Gladman Developments Ltd
20	S106 Heads of Terms	Gladman Developments Ltd
21	Housing Land Supply Assessment	Hourigan Connolly
22	Socio-Economic Sustainability Statement	Gladman Developments Ltd
23	Odour Impact Assessment	Peter Brett Associates

## 2.2.3 Also enclosed with this Planning Statement is;

Appendix 1	Draft proposed planning conditions
Appendix 2	Draft S106 agreement
Appendix 3	Sustainability matrix
Appendix 4	Gladman Track Record Table
Appendix 5	Planning Balance Table
Appendix 6	Utilities Appraisal
Appendix 7	Neighbourhood Plan Representations
Appendix 8	Officers Report (14/00844/OUT)

## 2.3 Structure of the Statement

### 2.3.1 The remainder of the supporting Planning Statement is structured as follows:

- Chapter 2- Introduction

- Chapter 3- The Application Site
- Chapter 4- The Proposed Development
- Chapter 5- The Development Plan
- Chapter 6- National Planning Policy Framework
- Chapter 7- National Planning Practice Guidance
- Chapter 8- Emerging Local Plan
- Chapter 9- Five Year Housing Land Supply
- Chapter 10- Affordable Housing
- Chapter 11- Material Planning Benefits
- Chapter 12- Summary and Conclusions

### **3 THE APPLICATION SITE**

- 3.1.1 The proposed development site covers approximately 2.70 hectares and is located to the east of Sibford Road, Hook Norton.
- 3.1.2 The site comprises a single regular shaped pastoral field, which is contained by scrubby hedgerows and mature trees. The site is bounded south by Hook Norton C of E, west by Sibford Road, east by flat pastoral land and north by a Dairy Farm.
- 3.1.3 Vehicular accesses to the site is proposed from Sibford Road to the west, with pedestrian access points also proposed along this route.

#### **3.2 Planning History**

##### **Previous Application**

- 3.2.1 A previous outline application was submitted for up to 54 dwellings on the site in May 2014 and was refused permission on the 4<sup>th</sup> September 2014. An appeal against this decision has been lodged but has not yet been determined.

- 3.2.2 The site was refused for the following reasons:

- I. *“Notwithstanding the Council’s present inability to demonstrate that it has a 5 year housing land supply as required by paragraph 47 of the NPPF, the development of this site cannot be justified on the basis of the land supply shortfall alone. The applicant has failed to adequately demonstrate that the proposed development would not be adversely affected by the activities associated with the Intensive Dairy Farm Unit at Redlands Farm immediately to the north, resulting in an unacceptable living environment for the occupiers of the new dwellings. As such the development is considered to be unsustainable and the proposed would be contrary to the thrust of Policy ENV1 of the adopted Cherwell Local Plan and Government advice within the National Planning Policy Framework which seeks to ensure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”.*



- II. *“In the absence of a satisfactory planning obligation, the Local Planning Authority is not convinced that the infrastructure and affordable housing directly required as a result of this scheme will be delivered. This would be contrary to Policy H5 of the adopted Cherwell Local Plan, Policy INF1 of the Submission Local Plan and government guidance within the National Planning Policy Framework.”*

### **The Bourne**

3.2.3 An appeal decision by Taylor Wimpey (APP/C3105/A/12/2184094) on the site opposite the Sibford Road is also relevant to the proposed development.

3.2.4 The Inspector’s report to the Secretary of State concluded that whilst the proposed development would be contrary to policies C8, H12, H13 and H18 of the adopted Local Plan, the policies are significantly time expired, and as the Council cannot demonstrate a five year housing land supply, the development plan policies governing housing land supply (C8, H12, H13 and H18) should not be considered up to date. The decision by the Inspector is reinforced by the Secretary of State:

*“Although the appeal proposal would be contrary to certain policies within an out of date development plan, the Council does not have a proven 5-year supply of housing land so that, in accordance with the provisions of the Framework, full weight can no longer be given to the relevant housing policies of the development plan.”*

3.2.5 The Secretary of State continues:

*“The scheme represents sustainable development which would make a significant contribution towards addressing the undersupply of housing in the District. Therefore, although the proposed development would cause moderate and localised harm to the character and appearance of the countryside, the Secretary of State is satisfied that this would be limited and would not significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies of the Framework taken as a whole.”*

3.2.6 The applicant has demonstrated that the proposed development constitutes sustainable development through the technical reports within the application submission. The appeal has concluded that relevant policies for the supply of housing should not be considered up-to-date. In this case paragraph 14 of the Framework applies, and it is considered that planning permission should be granted for this development.

## **4 THE PROPOSED DEVELOPMENT**

### **4.1 Introduction**

4.1.1 The proposed development and Development Framework Plan has been informed by the detailed site investigations and technical studies listed at section 2.2.2.

### **4.2 Public Consultation**

4.2.1 GDL have undertaken a public consultation exercise during the development and preparation of this application. Details of these and the way in which the submitted proposal responds to the comments received are set out in the Statement of Community Involvement.

4.2.2 As part of the 1<sup>st</sup> application, the Council undertook statutory consultation during the 13 week determination period by way of neighbour letter, site notice and an advert in the local press.

### **4.3 The Vision – The Design Objectives**

4.3.1 The proposals are based on sound design principles that have addressed the amount of development, the uses for the site, the layout and the proposed hierarchy of built form across the site. Consideration has also been given to achieving a sensitive integration between the proposed development and the existing settlement.

4.3.2 The overarching objectives of the Development Framework are to provide a good mix of housing sizes and tenures with a range of housing embracing a 'Homes for the future' design philosophy to meet identified housing need.

4.3.3 The housing mix will reflect the accommodation needs of different people, families and ages. Careful consideration has been given to the public open space provision, car parking, and play areas.

4.3.4 The proposals include highways alterations, improved pedestrian linkages and therefore will deliver a highly accessible development in this sustainable location. The creation of new pedestrian rights of way via a permeable network of footpaths will allow for ease of movement throughout the development and into Hook Norton.

4.3.5 Access is proposed to be taken off Sibford Road (See Development Framework Plan).

4.3.6 Protection of the (limited) existing on site environmental assets is an integral objective to these proposals. The proposed development retains and enhances the existing hedgerow boundaries and established vegetation.

- 4.3.7 Recognising the value of the local vernacular and architectural character, the proposals respond to this by embracing local distinctiveness throughout the site, as illustrated within the Design and Access Statement.

#### **4.4 Delivery**

- 4.4.1 The development of market dwellings will be delivered by private house builders, with affordable housing either provided by or in partnership with a Registered Social Landlord (RSL). Following a grant of consent, the site would be marketed by GDL and sold to one or more house builders who would submit the required reserved matters application(s).
- 4.4.2 It is likely that, subject to market conditions, around 30 market dwellings would be completed per annum. The affordable housing often takes places simultaneously (as required by Section 106 Agreement) alongside the market dwelling completions. Therefore it is anticipated that the development of the site would take in the order of 2 to 3 years to complete. Subsequent to the grant of outline consent the site would be marketed as expeditiously as possible.
- 4.4.3 A number of house builders have already expressed their interest in acquiring the site for residential development which provides a strong indicator that the delivery of the site will be secured expeditiously. GDL will also discuss the site with a number of Registered Social Landlords to act as providers of affordable housing on the site.

#### **4.5 Section 106 Obligations**

- 4.5.1 A draft S106 Agreement has been submitted as part of the application (see Appendix 2).
- 4.5.2 GDL will seek to enter into constructive dialogue to agree obligations for on and off site provisions which are reasonably related in scale and kind to the proposed development and which meet the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010.

## **5 THE DEVELOPMENT PLAN**

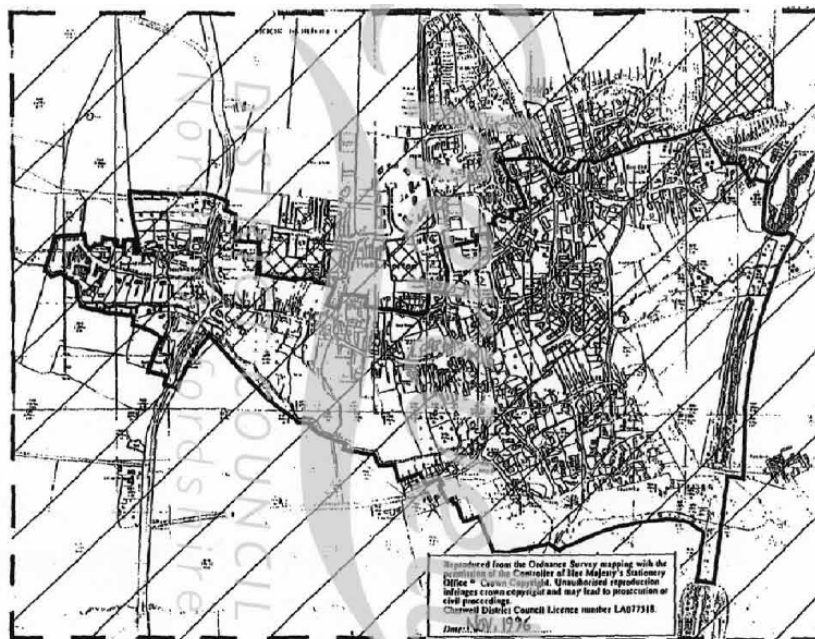
### **5.1 Introduction**

- 5.1.1 The development plan for this site consists of the saved policies of the Cherwell Local Plan (1996-2001), the interim policies of the abandoned Cherwell Local Plan (2001-2011) and emerging policies of the Draft Submission Cherwell Local Plan (2006-2031). Given the Government's decision revoking the Regional Spatial Strategies, this statement does not review the RSS for the South East, which was formally revoked on May 20<sup>th</sup> 2013.
- 5.1.2 This Chapter examines the key policy issues from the Development Plan relating to the application proposal.

### **5.2 Cherwell Local Plan (1996-2001)**

- 5.2.1 The adopted development plan for CDC is the saved policies of the Local Plan adopted in 1996. A number of Local Plan policies were saved by the Secretary of State's Direction in 2007. The Local Plan period ran until 2001. Therefore policies are now considerably time expired and out-of-date.
- 5.2.2 The Local Plan proposals map defines the application site as outside of the built-up limit of the settlement of Hook Norton and in a location where an Area of High Landscape Value policy applies.
- 5.2.3 The Council does not have a five year housing land supply and so relevant policies for the supply of housing should not be considered up-to-date; which in this case is policy H18 New Dwellings in the Countryside, as well as policy C8 Sporadic Development in the Open Countryside. As such, the application of NPPF paragraph 14 applies.
- 5.2.4 In addition, NPPF paragraph 215 requires that weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework.

## Proposals Map



5.2.5 The site is located adjacent to the settlement boundary of Hook Norton. The site is located within an Area of High Landscape Value designation in the Proposals Map. The site is therefore considered to be subject to the following saved policies:

Policy H13	Residential development in category 1 settlements
Policy H18	New dwellings in the countryside
Policy C7	Landscape conservation
Policy C8	Sporadic development in the open countryside
Policy C13	Areas of High Landscape Value
Policy C27	Development in villages to respect historic settlement pattern
Policy C28	Layout, design and external appearance of new development
Policy C30	Design of new residential development
Policy ENV1	Pollution Control
Policy R12	Provision of public open space in association with new residential development
Policy TR1	Transportation funding
Policy TR7	Development attracting traffic on minor roads

5.2.6 In an appeal decision from 2013 by Taylor Wimpey and Barton Willmore (APP/C3105/A/12/2184094), the Secretary of State agreed with the Inspector that, while **Policy H18**, New dwellings in the countryside, of the Local Plan (LP) has a clear function of protecting the countryside, the time expired nature of the LP and the fact that 60% of new housing will have to be on greenfield land mean that only limited weight can be afforded to that policy. Whilst some limited weight can be afforded to policy H18, the development plan is nonetheless dated and does not make provision for housing sites to meet current and future needs. The Inspector concluded:

*“...the Council does not have a 5 year housing land supply. As a consequence, paragraph 49 of the Framework directs that development plan policies governing housing land supply, such as policies H12, H13, H18 and C8 of the adopted Local Plan, should not be considered up to date. On the evidence before me, I find that there is more than a limited degree of conflict between the Framework and the approach of the development plan on the issue of residential development and housing land supply. In these circumstances, full weight may not continue to be given relevant policies of the development plan, as paragraph 215 of the Framework makes clear. This is an important material consideration in this appeal.”*

- 5.2.7 In addition, policy H18 was intended to prevent housing outside of the development boundary in force at the time of adoption. When the policy was saved in 2007, the Secretary of State’s letter stated that where policies were adopted some time ago, it is likely that material considerations, in particular the emergence of new national and regional policy and also new evidence, will be afforded considerable weight in decisions. The policy related to the housing situation at the time of the Local Plan. Therefore paragraph 14 should be the guiding principle in determining proposals.
- 5.2.8 The Inspector in the appeal at Hook Norton (APP/C3105/A/12/2184094) found that there was conflict between the Framework and the approach of the Plan on the issue of residential development and housing land supply. In these circumstances, full weight may not continue to be given to relevant policies.
- 5.2.9 **Saved Policy H13**, Residential development in category 1 settlements, states that *“Residential development within the villages of Adderbury, Ambrosden, Bloxham, Bodicote, Chesterton, Cropredy, Deddington, Finmere, Fringford, Fritwell, Hook Norton, Kirtlington, Launton, Mollington, Steeple Aston, Shenington, Sibford Gower and Sibford Ferris will be restricted to infilling, minor development comprising small groups of dwellings on sites within the built-up area of the settlement, the conversion of non-residential buildings in accordance with Policy H21.*
- 5.2.10 As referenced within the previous appeal decision (APP/C3105/A/12/2184094), Policy H13 should not be considered up to date. The policy is also inconsistent with the Framework and is significantly time expired. Therefore the policy should be afforded extremely limited weight. Hook Norton is a sustainable settlement which can assist in providing CDC’s objectively assessed need.
- 5.2.11 **Saved Policy C7**, Landscape conservation, states that *“development will not normally be permitted if it would cause demonstrable harm to the topography and character of the landscape.”* A recent appeal by Miller Strategic (APP/C3105/A/13/2204000) challenged the status of the policy. The Inspector replied, *“Paragraph 215 of the Framework advises that due weight should be given to policies such as these according to their degree of consistency with the Framework. Given the paragraphs of the Framework mentioned above I give policy H18 limited weight and policy C7 significant weight.”*
- 5.2.12 Gladman contends that the proposed development would be in accordance with policy C7, as the site’s topography does not undulate and the proposed development would not harm the character

- of the landscape, as demonstrated by the landscape and visual assessment submitted with the application. The site is well contained by existing natural boundaries helping to obscure the extent of the impact on the surrounding area.
- 5.2.13 It is noted that no conflict with policy C7 was identified within the previous officer's report to committee (ref 14/00844/OUT attached at Appendix 8).
- 5.2.14 GDL contend that the Council's proposed policy on the need to accommodate development on greenfield land, **policy C8** Sporadic development in the open countryside, is out-of-date (in the absence of a 5 year housing land supply) (and inconsistent with the NPPF) as it restricts all new development beyond the existing built-up limits of the settlements. Such a policy will undoubtedly prevent the Council meeting its current and future housing needs; adopted settlements boundaries and policies relevant to the supply of housing are not up-to-date and are inconsistent with the policies contained in the NPPF.
- 5.2.15 The policy officers response to the previous application stated;
- 'The proposals would extend development into the Countryside, contrary to saved policies C8 and C9... However the impact that the development would have on the landscape and protecting the countryside has to be assessed against the benefits the development would have in terms of increased housing supply.'*
- 5.2.16 **Policy C13**, Areas of high landscape value, states the Ironstone Downs, the Cherwell Valley, the Thames Valley, North Ploughley, Muswell Hill and Otmoor are designated Areas of High Landscape Value within which the council will seek to conserve and enhance the environment.
- "As with development within the A.O.N.B., careful control of the scale and type of development will be required to protect the character of the Areas of High Landscape Value, and particular attention will need to be paid to siting and design. Permitted Development rights are not affected by Area of High Landscape Value designation."*
- 5.2.17 However, it is considered that the site has a stronger relationship to existing development to the south than the wider landscape to the east and west. The design team have taken particular care to ensure that the siting and design of the development are sensitive to this designation. The development proposals include the retention of existing vegetation along the site boundaries and reduced scale development and new tree and hedgerow planting where appropriate to create a low density filtered edge to the countryside. A full Landscape and Visual Impact Assessment is included with this application.
- 5.2.18 Policy C13, which designates the Area of High Landscape Value, has been afforded little weight by the Inspector in an appeal decision at Milton Road (APP/C3105/A/12/2189191). GDL contend that no specific policies in the Framework or the Cherwell Development Plan precludes or indicates development should be restricted. In applying paragraph 49 due to the deficient five year supply

the presumption in favour of sustainable development is engaged. Where conflict with the time expired saved policies Local Plan does arise/potentially arise (H13, H18, and C8), GDL considers that these are policies related to the supply of housing which are out of date. Only very limited weight could be attributed to any conflict in the planning balance.

- 5.2.19 The Inspector noted that this is a local designation, but which is no longer given significant weight in the Framework. Footnote 9 of paragraph 14 of the Framework states that policies relating to sites protected under the Birds and Habitats Directive, and/or designated as SSSIs, Green Belt land, Local Green Space, an AONB, Heritage Coast or within a National Park should be considered within plan making for restricting development. The site is not affected by any designations such as these. The Inspector also commented:

*“With regard to the effect of the proposals on the Area of High Landscape Value (AHLV), it should be noted that this is a local designation, one which should be acknowledged as a landscape of particular merit or value, but which is no longer given significant weight in the Framework. In paragraph 3.19 of the Council’s statement of case it is acknowledged that since the adoption of the Cherwell Local Plan 1996 there has been a material change to the planning approach for local designations. Previously only landscapes identified as ‘special areas’ merited particular attention. It is also acknowledged that the materiality of this change means that the emerging Cherwell Local Plan no longer carried forward the AHLV policy, not least because the policy revisions are no longer up to date with the best practice and no longer consistent with the Framework.”*

- 5.2.20 In this particular case, on balance, a planning policy objection is not raised to the proposed development subject to all detailed matters having been satisfactorily resolved, having regard to the policies on housing, design and construction being included in the proposed submission Local Plan and to issues of deliverability.
- 5.2.21 In this case, policy C13 should be afforded limited weight and the proposal should be assessed against the policies within the Framework. The proposal should therefore be granted permission under the presumption in favour of sustainable development.
- 5.2.22 **Policy C27**, Development in villages to respect historic settlement pattern, states that development proposals will be expected to respect their historic settlement pattern. The proposed development is sited in a sustainable, suitably located location and respects the historic character of the settlement pattern. The site is well contained by both existing development, and natural boundaries. The LVIA submitted with the application demonstrates that the proposed development respects the character of the existing settlement of Hook Norton.

The officer’s report for the first application (ref 14/00844/OUT) suggests no conflict is present with this policy.



- 5.2.23 **Policy C28**, Layout, Design and External Appearance of New Development, ensures 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. The site promotes the highest quality sustainable design, and will create an enduring high quality built form, public realm and landscape that sensitively responds to its setting by using best practice contemporary design that is rooted in local character whilst avoiding a clumsy pastiche of architectural styles. See the Design and Access Statement (DAS) submitted with the application for more details.
- 5.2.24 The officer's report for the first applications (ref 14/00844/OUT) suggests no conflict is present with this policy.
- 5.2.25 **Policy C30**, Design of New Residential Development, states that new housing development should provide standards of amenity and privacy acceptable to the local planning authority. The DAS submitted with the application shows that buildings will be located to actively face streets and public areas in order to promote 24 hour surveillance, and to encourage safer places. Public areas such as the streets and play areas will be designed so that they are safe, easily accessible and attractive to use. All users will be considered as part of an inclusive design approach.
- 5.2.26 Attention will be given to the impact of height and massing of development on neighbouring streets. Higher buildings will be positioned adjacent to the main street, facing onto internal public open spaces and at key points such as corner plots to provide focal points.
- 5.2.27 Further details of design will be considered at the reserved matters stage.
- 5.2.28 The officer's report for the first application (ref 14/00844/OUT) suggests no conflict is present with this policy.
- 5.2.29 **Policy ENV1** Pollution Control states, *"Development which is likely to cause materially detrimental levels of noise, vibration, smell, smoke, fumes or other type of environmental pollution will not normally be permitted."*
- 5.2.30 The proposed development is located adjacent to the existing Redlands Dairy Farm. Concerns have been expressed by the Anti-Social Behaviour Manager, regarding the potential adverse effects generated by the odour from the dairy farm on the future residents of the proposed development.
- 5.2.31 The Odour Report, completed by Peter Brett Associates, assesses the potential for adverse effects from the Dairy Farm on the future residents of the proposed scheme and has been updated in order to overcome the previous reason for refusal.
- 5.2.32 The Institute of Air Quality Management (IAQM) has undertaken a comprehensive review of how odour should be considered in the planning process and new guidance has been developed. The

guidance states that where the effect is greater than 'slight adverse' (ie. moderate adverse), then in accordance with Environmental Impact Assessment (EIA) requirements, the effect would be regarded as significant. In addition, the guidance states:

*"Concluding that an effect is significant should not mean, of itself, that a development proposal is unacceptable and the planning application should be refused; rather, it should mean that careful consideration needs to be given to the consequences, scope for securing further mitigation, and the balance with any wider environmental, social and economic benefits that the proposal would bring."*

- 5.2.33 An assessment of the odour effects from Redlands Dairy Farm on the proposed Sibford Road development site has been undertaken. The assessment has been undertaken in accordance with the recently issued IAQM guidance. The report concludes that the effect of the odour on the proposed site is slight adverse.
- 5.2.34 With the proposed vegetative buffer to the northern boundary of the site, in addition to the existing dense vegetation barrier between the proposed development site and the Dairy Farm, the situation will be further improved. The vegetative buffer will be constructed of mainly evergreen species, which are known to be more effective at disrupting the transport of odour, deciduous species and bushes. With the construction of the 3.5 metre acoustic fence directly in front of the vegetative buffer there will be significant screening between the scheme and the existing intensive farming unit.
- 5.2.35 The Appellant has completed a revised Odour Assessment addressing the first reason for refusal and the conflict with ENV1. A number of surveys were undertaken considering in depth the effect of the odour upon the future residents of the scheme. The report concludes that the effect of the odour is slight adverse, which is therefore not significant. Given this outcome it is argued that compliance with this policy and other relevant guidance has been demonstrated.
- 5.2.36 **Policy R12**, Provision of open space in association with new residential development, states that the Council will normally require in connection with all new housing developments the minimum provision of 2.43 hectares (6 acres) of public open space per 1,000 population. The development is providing 0.50 hectares of open space adjacent to the existing school playing fields. Therefore the development is policy compliant.
- 5.2.37 The development is providing 0.50 hectares of open space adjacent to the existing school playing field, therefore the proposals are policy compliant. The officer's report suggests that no conflict arises in regards to this policy.
- 5.2.38 **Policy TR1**, Transportation Funding, states that before proposals for development are permitted the Council will require to be satisfied that new highways, highway-improvement works, traffic-

- management measures, additional public transport facilities or other transport measures that would be required as a consequence of allowing the development to proceed will be provided.
- 5.2.39 The access to the proposal is to be constructed to adoptable standards to include footways which would link into the existing pedestrian infrastructure along Sibford Road. The development will provide a site layout designed in accordance with current best practice to accommodate pedestrians and cyclists. The sustainability assessment shows that the site is accessible by non-car modes.
- 5.2.40 The NPPF and the new DfT 'The Strategic Road Network and the Delivery of Sustainable Developments' circular 02/2013 state that "*Development should only be prevented or refused on transport grounds where the residual cumulative impacts on development are severe*". The traffic impact assessment shows that the proposed development would have a negligible impact on the highway network. See the submitted Transport Assessment for more information.
- 5.2.41 The officer's report for the first application (ref 14/00844/OUT) suggests no conflict arises in regards to this policy.
- 5.2.42 **Policy TR7**, Development Affecting Traffic on Minor Roads, states that development that would regularly attract large commercial vehicles or large numbers of cars onto unsustainable roads will not normally be permitted. As previously discussed, the Transport Assessment concludes that the development is acceptable in highways and transportation terms. The PICADY assessments show that the proposed access junctions would operate well within capacity and would adequately accommodate the development proposals. The accident analysis shows that the proposed development would not result in any highway safety issues within the local highway network.
- 5.2.43 Section 38(6) of the Planning and Compulsory Purchase Act and Section 70(2) of the Town and Country Planning Act 1990 require that decisions are made in accordance with the Development Plan unless material considerations indicate otherwise. In this case, the Council have not demonstrated an up-to-date evidence base and cannot demonstrate a five year housing land supply. However, paragraph 215 of the NPPF states that "*due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)*".
- 5.2.44 However, in respect of the "transitional" arrangements in the NPPF that only Development Plan Documents (DPDs) adopted under the Planning and Compulsory Purchase Act 2004 had full weight for 12 months. This means NPPF paragraph 215 applies throughout the consideration of this case; it states that "due weight" should be given to policies in plans according to their degree of consistency with the policies in the Framework. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.

5.2.45 The officer's report for the first application (ref 14/00/844/OUT) suggests that no conflict arises in regards to this policy.

5.2.46 Within Reason for Refusal 2 the Council have identified a conflict with Policy H5 due to the absence of a satisfactory planning obligation. The Appellant and the Council are currently in the process of agreeing on a S106 agreement. A draft can be found at Appendix 2.

5.2.47 Within the conclusions of the officers report to committee (penultimate paragraph of section 5.16) it states:

*'It is accepted that the development proposed by virtue of its nature, being the development of a green field site beyond the existing built up limits of the village into open countryside will result in localised harm within the immediate vicinity of the site, and the introduction of houses, access roads and associated domestic paraphernalia onto the site would have an urbanising effect. However the visibility of the site within the wider area is restricted by intervening vegetation built development and topography. The proposal is therefore unlikely to adversely impact on the Area of High landscape value or the adjacent Cotswolds AONB. Having regard to the above and the Landscape Officers comments, it is considered that the development proposed, which would be predominantly two storeys would not appear unduly prominent or obtrusive and therefore the visual impact of the development would not be of significant and demonstrable harm as described within the NPPF to justify refusal of the application on landscape impact and harm to the open countryside.'*

5.2.48 It also noteworthy that the officer's report does not consider that there is a material conflict with any other saved policy and there was no conflict with the NPPF, other than that highlighted in the RfR.

5.2.49 The officer's report recognises that no significant conflict exists with the policies contained in the emerging Local Plan. In addition, the report goes on to state:

*'...the Adopted Cherwell Local Plan is out of date in terms of allocating land for new housing development, and the Submission Cherwell local Plan currently carries limited weight in the consideration of new development proposals. As such a refusal based on these grounds alone is unlikely to be defensible at appeal and has to be weighed against other material considerations, the most significant being the need to provide a five year housing land supply.'*

### **5.3 Non-Statutory Cherwell Local Plan (2001-2011)**

5.3.1 Work on a replacement to the adopted Local Plan- the Cherwell Local Plan (2011) - was abandoned in December 2004 to enable work to begin on the Local Development Framework. Although the plan is not part of the development plan, the Council decided that it should be used as interim planning policy for development control purposes. The Plan period expired in 2011 and so draft policies are not time expired and out of date. The Plan was not prepared in accordance with the

Planning and Compulsory Purchase Act 2004 and, with reference to NPPF paragraph 216, weight should only be given to policies according to the stage of preparation, the extent to which there are unresolved objections and the degree of consistency with the policies in the NPPF.

5.3.2 The Inspector in a recent appeal in Cherwell at The Green, Chesterton found that:

- *“The Non-Statutory Cherwell Local Plan 2001-2011, which was subject to public consultation, was not progressed to adoption, but was approved by the Council in 2004 for development control purposes: thus, although it is a material consideration, it is one of very limited weight.”*  
(APP/C3105/A/12/2183183)

5.3.3 A recent Secretary of State decision (APP/C3105/A/13/2189896) has also confirmed that the Non-Statutory Local Plan should be afforded *“extremely limited weight”*. Similarly, any weight given to the policies in the Plan should be in accordance with their degree of consistency with the NPPF.

## 6 NATIONAL PLANNING POLICY FRAMEWORK

### 6.1 Context

6.1.1 Having regard to the proper application of the Framework, the following can be said of the application proposals.

6.1.2 Paragraph 13 of the Framework confirms that the NPPF constitutes guidance for local planning authorities and decision-takers both in drawing plans and as a material consideration in determining applications.

### 6.2 Sustainable Development

#### *An economic role*

6.2.1 The beneficial economic impacts of the proposals have been considered in the Socio-Economic Sustainability Statement submitted with the application. Delivery of new homes now in Cherwell is one component of the key contributors that will enable the Council to promote and sustain a strong, responsive and competitive economy. The Socio-Economic Sustainability Statement identifies that this application could attract a New Homes Bonus to CDC of £500,000. The proposed development could also provide construction investment, construction employment and a significant increase in household spending for Hook Norton and Cherwell.

#### *A social role*

6.2.2 The proposals will deliver new homes of the right type, at the right place and at the right time to meet market and affordable housing need and in turn will support the district's growth aspirations. Without a sufficient supply of new homes the district cannot meet the needs of present or future generations. It will be demonstrated the site is located in an accessible and sustainable location close to the key services and facilities in the town that will help to support the health, social and cultural wellbeing of Hook Norton and Cherwell District.

#### *An environmental role*

6.2.3 The proposals involve the provision of a significant area of informal and formal public open space and landscape planting respectful to the site context. There is no reason to suggest that any ecology, habitats of nature conservation interest or any protected species will be adversely affected by the proposed development. The application proposals are also acceptable in terms of flood risk and transport. Valuable mature trees and hedgerows will be retained and enhanced as part of the proposals to deliver biodiversity benefits to the area. Paragraph 14, footnote 9 of the NPPF also provides specific policies that indicate development should be restricted, however none of the designation examples provided in footnote 9 affect or restrict the application site.

### ***The presumption in favour of sustainable development***

6.2.4 The proposals benefit from the presumption in favour of sustainable development and that they strongly accord with the Core Planning Principles set out in paragraph 17 of the Framework.

6.2.5 It is evident from the claimed supply of Cherwell District Council that the Council does not have a five year housing land supply and that the relevant housing related policies are out of date.

6.2.6 Paragraph 6 of the NPPF sets out that the policies in paragraphs 18 to 219, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system. The technical reports as part of this planning application demonstrate how the proposals accord with these.

6.2.7 The NPPF adopts the Brundtland definition of sustainable development of meeting the needs of the present without compromising the ability of future generations to meet their own needs. Paragraph 7 highlights the economic, social and environmental elements of delivering sustainable development. Paragraph 8 notes:

*"These roles [economic, social and environmental] should not be undertaken in isolation, because they are mutually dependent. Economic growth can secure higher social and environmental standards, and well-designed buildings and places can improve the lives of people and communities."*

6.2.8 Whilst emphasising the need to balance these elements, paragraph 19 states:

*"The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system."*

6.2.9 The NPPF enacts a presumption in favour of sustainable development, the '**Golden Thread**' as set out at paragraph 14:

*"At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking."*

*"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 this Framework taken as a whole; or*
- *specific policies in this Framework indicate development should be restricted.”*

6.2.10 The area of the site to be developed is not identified within any of the designations within footnote 9 and has not been assessed as a valued landscape (NPPF paragraph 109). Accordingly, there are no policies within the NPPF that indicate that the development of this Site should be restricted.

6.2.11 A sustainability matrix is attached at Appendix 2 which shows that the development is sustainable. Further, the technical reports supporting the application clearly show that there are no significant adverse impacts associated with the development. While there will always be impacts associated with any development, in this case the impacts are not significant and are they are clearly outweighed by the substantial benefits associated with the development.

6.2.12 Paragraph 17 of the NPPF sets out the ‘*Core planning principles*’. Key amongst which seek the delivery of high quality design and include the following clear statements to support growth:

- *“proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth...”*
- *“always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;”*
- *“actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable;”*

### **6.3 Promoting Sustainable Transport**

6.3.1 Paragraph 29-41 set out how transport factors should be taken into account when considering development. Transport Assessments should support all development that generate significant amounts of movement whilst Travel Plans are cited as an important tool to facilitate sustainable transport modes. It also states that development should only be prevented or refused on transport grounds where residual cumulative impacts of the development are severe.

### **6.4 Delivering a wide choice of high quality homes**

6.4.1 This section of the NPPF builds on the guidance in PPS3 to meet the Government’s key housing objective *“to boost significantly the supply of housing”*. Paragraph 47 sets out how LPAs should achieve this boost in the supply of housing, including a requirement to:

*“identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to*



*ensure choice and competition in the market for land"*

6.4.2 Footnote 11 to paragraph 47 explains that to be considered deliverable, sites should be available now.... and be achievable with a realistic prospect that housing will be delivered on the site within 5 years. Footnote 11 also states that sites with permission should be considered deliverable until permission expires, **unless there is clear evidence that schemes will not be implemented within 5 years, for example they will not be viable....** (my emphasis). In a recent appeal decision for a site in Chapel-en-le-Frith the Inspector considered that *"the inclusion of the phrase until permission expires strongly implies that a site which no longer has – or, significantly, has not received – planning permission for housing is not to be considered deliverable in the terms of the framework."*

6.4.3 Paragraph 49 provides further guidance on both how this should be achieved and how applications should be considered if it is not:

*"...Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."*

6.4.4 Paragraph 50 seeks a wide choice of quality homes and on-site affordable provision.

## **6.5 Promoting Healthy Communities**

6.5.1 Paragraphs 69-70 promote the creation of sustainable, healthy communities by protecting or enhancing community facilities and open spaces.

## **6.6 Meeting the Challenge of Climate Change, Flooding and Coastal Change**

6.6.1 Paragraph 95 seeks *"new development in locations and ways which reduce greenhouse gas emissions"* and requires LPA sustainability requirements to adopt nationally prescribed standards. Paragraphs 99-104 seek to manage the risk of flooding by avoiding inappropriate development in vulnerable areas and by applying the sequential test.

6.6.2 The site does not include any land within the EA Flood Plain and the scheme provides for an improvement to the current situation to the benefit of the local area.

## **6.7 Conserving and Enhancing the Natural Environment**

6.7.1 Paragraphs 109-115 address the protection of valued landscapes. It requires local authorities to create, protect, enhance and manage networks of biodiversity and green infrastructure, to make effective re-use of previously developed land as well as emphasising the protection of undeveloped coasts and National Parks.

6.7.2 A Landscape and Visual Appraisal of the proposed development has been carried out as part of an iterative design process by FPCR Environment and Design. The site lies within an 'Area of High

Landscape Value'. However, it is considered that the site has a stronger relationship to existing development to the south than the wider landscape to the east and west. The proposed design has ensured that the siting and design of the development are sensitive to this designation. The development proposals include retention of existing vegetation along the site boundaries and reduced scale development and new tree and hedgerow planting where appropriate to create a low density filtered edge to the countryside.

6.7.3 The site itself has few features of intrinsic landscape merit and the proposals demonstrate how existing site vegetation along the site boundaries can largely be retained as an integral part of the scheme. The site also represents an opportunity for new tree planting within areas of public open space, plots and along streets. The development will not result in any significant adverse effects upon the Cotswolds AONB.

6.7.4 Paragraph 118 provides guidance to minimise impacts on biodiversity:

*"When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:*

- 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 planning permission should be refused;*
- proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest;*
- development proposals where the primary objective is to conserve or enhance biodiversity should be permitted;*
- opportunities to incorporate biodiversity in and around developments should be encouraged;"*

6.7.5 The proposals retain the existing elements of the bio diversity value of the site. Furthermore, as part of the scheme, there are opportunities to contribute further to local biodiversity through habitat creation, in particular through the creation of wetlands to the north of the site as part of an integrated sustainable drainage system.

## **6.8 Conserving and Enhancing the Historic Environment**

6.8.1 The character and setting of Hook Norton's conservation area is unaffected by the location of the proposed development. The site is not in close proximity to any listed buildings either, which means the development is in compliance with the relevant policies of the adopted Local Plan, the emerging Local Plan and the NPPF.

## 6.9 Decision-Taking

6.9.1 Paragraphs 186-187 state:

*“Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision-taking and plan-making should be seamless, translating plans into high quality development on the ground.*

*Local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.”*

6.9.2 Paragraphs 188-191 encourage applicants to engage in good quality pre-application engagement. Paragraphs 203-206 restate previous advice on conditions and obligations and Community Infrastructure Levy charges emphasising their impact on viability.

## 6.10 Annex 1: Implementation

6.10.1 Paragraphs 214 – 216 addresses the amount of weight that should be given to existing and emerging policies:

*“For 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework.*

*In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).*

*From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:*

- *the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- *the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).”*

## 6.11 Summary

6.11.1 In this circumstance, paragraph 49 of the Framework provides extremely clear guidance on how this should be achieved and how development proposals should be considered if it is not:

***“...Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites”.***

- 6.11.2 It is reasonable to conclude that the presumption in favour of sustainable development is applicable to the proposals.
- 6.11.3 The proposals will deliver new housing development which will assist the Council by contributing towards the remediation of the land supply and will also assist in meeting the central government objective of "boosting significantly" the supply of housing.
- 6.11.4 In accordance with Paragraph 14 of the Framework, there are no adverse impacts arising from the appeal proposals which would significantly and demonstrably outweigh the benefits that this development will deliver (and all of the RfR have been overcome). There are no specific policies of the Framework which would preclude the development and in the circumstances, the Framework directs planning permission should be granted.
- 6.11.5 These conclusions are consistent with recent appeal decisions in respect to the weight to be afforded to the saved Local Plan policies in the absence of a five year deliverable housing supply, the effect of the presumption and the weight to be afforded to the delivery of market and affordable housing in the planning balance.

## 7 PLANNING PRACTICE GUIDANCE (PPG)

### 7.1 Overview

7.1.1 On 28<sup>th</sup> August 2013, the government introduced the draft Planning Practice Guidance (PPG). The draft PPG was subject to consultation for six weeks and was published on 6<sup>th</sup> March 2014. The PPG replaces approximately 230 planning guidance documents but will result in no amendments to the Framework.

7.1.2 As the proposed development is in compliance with the NPPF, It is considered that the development is also in accordance with the recently published PPG. It is considered that the PPG reinforces the approach, the planning case and planning balance advanced, for this application by Gladman.

7.1.3 The Housing and Economic Land Availability Assessment section of the PPG is relevant to the position within West Oxfordshire, in particular Paragraph 30 (Reference ID: 3-030-20140306) which confirms:

*“Housing requirement figures in up-to-date adopted Local Plans should be used as the 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. It should be borne in mind that evidence which dates back several years, such as that drawn from revoked regional strategies, may not adequately reflect current needs.*

*Where evidence in Local Plans has become outdated and policies in emerging plans are not yet capable of carrying sufficient weight, information provided in the latest full assessment of housing needs should be considered. But the weight given to these assessments should take account of the fact they have not been tested or moderated against relevant constraints. Where there is no robust recent assessment of full housing needs, the household projections published by the Department for Communities and Local Government should be used as the starting point, but the weight given to these should take account of the fact they have not been tested.”*

7.1.4 Previous under-supply is dealt with at Paragraph 35 (Reference ID 3-035-20140306):

*“The approach to identifying a record of persistent under delivery of housing involves questions of judgement for the decision maker in order to determine whether or not a particular degree of under delivery of housing triggers the requirement to bring forward an additional supply of housing.*

*The factors behind persistent under delivery may vary from place to place and, therefore, there can be no universally applicable test or definition of the term. It is legitimate to consider a range of*

*issues, such as the effect of imposed housing moratoriums and the delivery rate before and after such moratoriums,*

*The assessment of a local delivery record is likely to be more robust if a longer term view is taken, since this is likely to take account of the peaks and troughs of the housing market cycle.*

*Local planning authorities should aim to deal with any under supply within the first 5 years of the plan period where possible. Where this cannot be met in the first 5 years, local planning authorities will need to work with neighbouring authorities under the 'Duty to Cooperate'.*

7.1.5 The PPG deals with deliverable sites at Paragraph 31 (Reference ID 3-031029140306):

*"Deliverable sites for housing could include those that are allocated for housing in the development plan and sites with planning permission (outline or full that have not been implemented) unless there is clear evidence that schemes will not be implemented within five years.*

*However, planning permission or allocation in a development plan is not a prerequisite for a site being deliverable in terms of the five-year supply. Local planning authorities will need to provide robust, up to date evidence to support the deliverability of sites, ensuring that their judgements on deliverability are clearly and transparently set out. If there are no significant constraints (e.g. infrastructure) to overcome sites not allocated within a development plan or without planning permission can be considered capable of being delivered within a five-year timeframe.*

*The size of sites will also be an important factor in identifying whether a housing site is deliverable within the first 5 years. Plan makers will need to consider the time it will take to commence development on site and build out rates to ensure a robust five-year housing supply."*

7.1.6 Regular reviews of Local Plans are essential in ensuring that the housing requirement is kept up-to-date particularly as the housing requirement in the adopted Local Plan is the starting point for the calculation of the 5 year deliverable supply. In this respect the PPG states at paragraph 8 (Reference ID 12-008-20140306) that:

*"To be effective plans need to be kept up-to-date. Policies will age at different rates depending on local circumstances, and the local planning authority should review the relevance of the Local Plan at regular intervals to assess whether some or all of it may need updating. Most Local Plans are likely to require updating in whole or in part at least every five years. Reviews should be proportionate to the issues in hand. Local Plans may be found sound conditional upon a review in whole or in part within five years of the date of adoption."*

7.1.7 It is considered that the PPG reinforces the approach, the planning case and planning balance advanced for this application by Gladman Developments Ltd.

## 8 EMERGING LOCAL PLAN

### 8.1 Submission Cherwell Local Plan (2006-2031)

8.1.1 The proposed new Cherwell Local Plan (2006-2031) was submitted to the Secretary of State for Communities and Local Government for formal Examination on 31 January 2014.

8.1.2 Of particular relevance to this application is the key evidence base document to inform the district wide housing distribution (policy BSC 1), the Oxfordshire Strategic Housing Market Assessment which has recently been published by Cherwell District Council.

8.1.3 Gladman have previously submitted representations in response to the consultation on the Cherwell Local Plan Proposed Submission Focussed Consultation. In these representations, Gladman contended the evidence base that the Submission Local Plan is based on, specifically the SHMA 2012 (update and review), is not up to date. The Council noted that the document was not intended to replace the Oxfordshire SHMA 2007, rather, *"it supplements the SHMA and provides more up to date information on housing needs to help inform policy making."*

8.1.4 The 2012 SHMA update fell short of providing the necessary robust and up-to-date evidence on a number of counts and is therefore contrary to the Framework. Firstly, as the SHMA (update and review) appeared to address Cherwell Housing needs in isolation, this is not a full update of the 2007 Oxfordshire SHMA and therefore does not give the necessary consideration to cross boundary issues and the wider needs of housing market areas and the implications and proposed requirements in neighbouring local planning authorities.

8.1.5 The document also only addresses the affordable element of housing need and does not include an assessment of market housing need. The Framework demonstrates clearly the requirements for SHMAs:

*"Local Planning Authorities should have a clear understanding of housing needs in their area. They should: - prepare a Strategic Housing Market Assessment to assess their full housing needs, working with neighbouring authorities where housing market areas cross administrative boundaries..."* (Framework Paragraph 159)

### 8.2 Main Modifications to the Submission Local Plan

8.2.1 The proposed Main Modifications are made following the Inspector's conclusions to the June 2014 hearings. Here the Inspector found that the submitted housing requirement did not reflect the most up-to-date assessment of housing needs for the housing market area rendering the plan unsound. The Inspector outlined that the committed economic scenario of the 2014 Oxfordshire SHMA produced by GL Hearn reflected the objectively assessed needs for the district, and that the Council must seek to meet these needs in full for the plan to be considered sound. The examination was

suspended for a period of six months to allow for the Council to set out a strategy for how the authority intended to meet these needs in full.

8.2.2 CDC have carried forward into the main modifications, the recommendations of the Inspector to increase the housing requirement of the Cherwell Local Plan to 22,800 dwellings (i.e. 1140 dwellings per annum) between 2011 and 2031. Gladman consider this move is critical in ensuring that the Cherwell Local Plan is found sound and suitable for adoption.

8.2.3 **Policy Villages 2** provides for a further 750 homes (**MM9**) to be provided at the Category A villages. This will principally involve the identification of sites of 10 or more dwellings within or outside the built-up limits of those villages. Hook Norton is identified as one of the most sustainable rural settlements within the District (SHLAA 2014). It is considered that these proposals will contribute towards meeting the emerging policy requirement.

8.2.4 Paragraph 216 of the Framework says that weight may be given to relevant policies depending on, amongst other things, the stage of preparation of the emerging plan and the degree of consistency of relevant policies to policies in the Framework. The Inspector in the recent Adderbury Appeal (3<sup>rd</sup> September, APP/C3105/A/14/2213263) advised on the weight that should be accorded to the emerging Local Plan, in light of the suspension of the examination. He concluded:

*“Whilst the Proposed Submission Cherwell Local Plan 2013 was submitted for examination, that process has been suspended because the plan did not reflect the District’s objectively assessed housing need. As such, and given the nature of this appeal, this plan attracts little weight.”*

### 8.3 SHLAA

8.3.1 The site was assessed in the SHLAA dated August 2014. The site was previously rejected in the 2013 SHLAA because the availability of the site had not been confirmed and therefore the site was not considered available at that stage.

8.3.2 The 2014 SHLAA concludes that the site *“is available and potentially suitable therefore could be developable and is worthy of further consideration.”* The SHLAA also concludes that *“Hook Norton is one of the most sustainable rural settlements in the district, with a **range of services and facilities available.**”*

8.3.3 It is clear from this application and the work which Gladman have undertaken that the site is available now and is deliverable within five years. The site can assist the Council at a time when it cannot demonstrate a deliverable housing supply in one of the most sustainable rural settlements within the District.



## **8.4 Head of Strategic Planning and the Economy**

8.4.1 It should be noted that the Head of Strategic Planning and the Economy responded positively during the consultation period for the first application.

*“In this particular case, on balance, a planning policy objection is not raised to the proposed development subject to all detailed matters having been satisfactorily resolved, having regard to the policies on housing, design and construction included in the Proposed Submission Local Plan and to issues of deliverability.”*

## 9 HOOK NORTON NEIGHBOURHOOD PLAN

9.1.1 Whilst the Neighbourhood Plan (HNNP) has just been approved by the Parish Council (HNPC) and is now progressing via Cherwell District Council (CDC) for consultation (examination and referendum to follow). In accordance with NPPF §216 decision-takers may give weight to the relevant policies in emerging plans but this is dependent upon the stage of preparation, the extent of unresolved objections and the degree of consistency with the Framework. Gladman consider that there are a number of unresolved objections to policies within the HNNP, a number of significant issues with the evidence base, and a number of policies which are not consistent with the provisions of the National Planning Policy Framework (NPPF). There have also been a number of significant recent changes that have not been properly taken account of within the HNNP. Representations have recently been made on this basis (see Appendix 7).

### Up-to-date Evidence Base

9.1.2 The HNPC have not considered the suspension of the emerging Local Plan examination in their consultation response. The Inspector was clear within his advice that the Council should put forward proposed modifications to the plan involving increased new housing delivery over the plan period to meet the full, up to date, objectively assessed needs of the district, as required by the NPPF and based on the Oxfordshire SHMA (2014). The suspension, to enable the Council to put forward proposed modifications to the plan involving increased new housing delivery over the plan period to meet the full, up-to-date, objectively assessed needs of the district, as required by the NPPF and based on the Oxfordshire Strategic Housing Market Assessment (SHMA).

9.1.3 The newly published SHMA outlines a need to provide in the upshot of 1190 dwellings per annum across the plan period 2011-2031 (equivalent to 23,800 dwellings 2011-2031). This represents an increase of 7,050 in excess of the draft Plan that the HNNP is based on.

9.1.4 The Neighbourhood Plan has been prepared using the same evidence base (as at November 2013) as the emerging Local Plan (that was found to be deficient). The Neighbourhood Plan has not been updated to reflect the findings of the Oxfordshire SHMA (2014), and thus, the evidence base that the Development Plan is founded on is unsound and not up-to-date; which is inconsistent with NPPF §158, stating that *“Each local planning authority should ensure that the Local plan is based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area.”*

9.1.5 In this case it is clear that the Neighbourhood Plan has been prepared against an out of date evidence base, and therefore policies will need to be updated to reflect this. Policy HN-N1 stipulates that *“Sustainable housing growth for Hook Norton in the Plan period (2014-2031) means conversions, infilling, and minor development. ‘Conversions’ means the conversion of either residential or non-residential buildings. ‘Infilling’ means the development of a small gap in an otherwise continuous built-up frontage, typically but not exclusively suitable for one or two dwellings. ‘Minor development’ means small scale development proposals, typically but not exclusively for less than 10 dwellings. To maintain*

*a sustainable community, proposals for up to 20 dwellings will be allowed where justified by objectively assessed local housing need and where this does not result in more than 20 dwellings being built in any location at any time, taking into account any extant permissions. In all cases, housing growth must comply with all relevant policies in this Plan.”*

- 9.1.6 This policy is in conflict with the aim of the NPPF to “boost significantly the supply of housing”, particularly in light of the 2014 Oxfordshire SHMA. The policy is therefore inconsistent with the provisions of the NPPF as it restricts growth in a settlement identified as sustainable within the emerging Local Plan. A full review of housing delivery across Policy Villages 2 will be required due to the findings of the SHMA.
- 9.1.7 In light of the recent suspension of the Submission Local Plan, to be able to deliver the full objectively assessed need for Cherwell District it is not unreasonable to assume that Hook Norton, and the other villages, may have to take more growth than is currently indicated, after being identified as sustainable locations for growth within the emerging Local Plan.
- 9.1.8 In this case, PPG states, “Neighbourhood Plans are not tested against the policies in an emerging Local Plan although the reasoning and evidence informing the Local Plan process may be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested.” (ID 12-013-20140306)

#### **The Local Plan Allocation**

- 9.1.9 The Neighbourhood Plan cross references with Policy Villages 2 which states that Hook Norton is within a group required to deliver 252 dwellings between 6 villages in the period 2012-2031. However, this policy has been superseded by the Main Modifications to the Local Plan, which outline the delivery of 750 dwellings between 23 Villages across the District. This is in response to the findings of the 2014 Oxfordshire SHMA. Cherwell District have responded to the increased housing need, and have outlined the delivery of 1140 dwellings per annum across the plan period. This, however, has not been reflected within policy HN-H1: Sustainable housing growth of the emerging Neighbourhood Plan.
- 9.1.10 With regard to the findings of the Oxfordshire SHMA (2014), and the updated evidence base of the Local Plan, it is likely the Neighbourhood Plan will need to plan a higher level of housing as a result for sustainable settlements like Hook Norton.
- 9.1.11 The HNNDP confirms that it has been prepared in general conformity with the NPPF.

#### **Considerations and Weight to be attributed to the HNNP**

- 9.1.12 If the HNNP were to be adopted as part of the development plan, the policies for the supply of housing land would not be considered up-to-date.

*“The Neighbourhood Plan makes use of evidence gathered and prepared for the emerging Local Plan. It also takes particular account of the Planning Practice Guidance”.*

- 9.1.13 CDC acknowledges it is unable to demonstrate a 5 year housing land supply (see CDC Housing Land Supply Update, June 2014, which states the Council currently have a 3.4 year supply). Therefore, the relevant policies for the supply of housing should not be considered up-to-date and this would apply to the HNPP also. The proposals constitute sustainable development and the presumption in favour at NPPF §14 prescribes that planning permission should be granted unless the adverse impacts would significantly and demonstrably outweigh the benefits. It is noted that no such reference to the presumption and a deficient five year housing land supply has been included within the HNPP.
- 9.1.14 The consultation response also states, *“A proposal which meets CDC housing numbers but is contrary to the HNPP does not represent sustainable development.”* Whilst the proposal may not comply with some of the draft policies of the HNPP it is not yet adopted and the weight attributed to it must be much reduced. In addition, the HNPP is inconsistent with the Framework and is not based on up-to-date evidence. Also, Cherwell District Council are unable to demonstrate a five year housing land supply and so the presumption in favour of sustainable development in §14 of the NPPF is enlivened and so permission should be granted unless the impacts of doing so would significantly and demonstrably outweigh the benefits of the scheme. In this case a full planning balancing exercise against this has to be undertaken.
- 9.1.15 Planning Practice Guidance (PPG) seeks to determine the weight to be afforded to an emerging neighbourhood plan when determining planning applications. PPG states, *“Paragraph 216 of the National Planning Policy Framework sets out the weight that may be given to relevant policies in emerging plans in decision taking. Factors to consider include the stage of preparation of the plan and the extent to which there are unresolved objections to relevant policies.”* (ID 41-007-20140306)
- 9.1.16 For all the reasons above very limited, if any weight should be attributed to the neighbourhood plan.

#### **Delegated Officers Report from 1st Application**

- 9.1.17 The Officer stated previously:
- “In respect of the Hook Norton Neighbourhood Plan, whilst this may now be a little more advanced and has been submitted to the district council and considered by the Executive, as the Submission Cherwell Local Plan has been suspended from Examination, and the Neighbourhood Plan has not been examined, it cannot be considered to be in conformity with that local plan.”*
- 9.1.18 The plan should therefore be attributed very limited weight and was clear from the officers report Section 3.2 a policy objection was not raised in respect to the HNPP and given a deficient 5 year housing land supply would render policies relevant to the supply of housing out of date, in any event.

## 10 FIVE YEAR HOUSING LAND SUPPLY

### 10.1 Context

- 10.1.1 The National Planning Policy Framework (NPPF) requires all local authorities to demonstrate a continuous, deliverable five year supply of housing land. It is imperative that this land is suitable, achievable and available now (paragraph 49). This supply is then to be measured against the housing requirement.
- 10.1.2 Cherwell District Council have not had an adopted Local Plan since the plan period for the Cherwell Local Plan (1996-2001) ended. Whilst there remains saved policies, these are significantly out of date, and so paragraph 14 of the NPPF applies. In this case, the development should be considered against the policies of the NPPF.
- 10.1.3 As discussed above, the South East Plan was also revoked by the Secretary of State in March 2013. The housing requirement for Cherwell District in the South East Plan was 670 dwellings per annum. Paragraph 47 of the NPPF however states that local planning authorities are now required to identify and meet the full objectively assessed housing needs. The SHMA has sought to do this and has identified the need for a significant increase from 670 homes to 1090-1190 homes with a requirement to deliver 21,800 – 23,800 homes from 2011 – 31. It is clear from the Hunston Court of Appeal Judgement that in the absence of a NPPF compliant and up to date Local Plan that the SHMA should be the figure used where calculating the five year housing land supply.

### 10.2 Housing Requirement and Housing Land Supply

#### Objectively Assessed Need

- 10.2.1 The Councils' full objectively assessed needs for the district is now available since the publication of the 2014 Oxfordshire SHMA. The SHMA identifies a significant increase to the previous housing requirements that were required. Against the figures contained in the SHMA, even the Council's claimed supply (which Gladman considers is an overestimate of the deliverable supply) is insufficient and a significant deficit for the deliverable five year housing supply exists.
- 10.2.2 The Hunston judgement reinforces the approach and imperative in the Framework for producing and maintaining up-to-date evidence which objectively assesses in full, market and affordable housing need. The outcome of the judgement demonstrates the benefit, and its critical importance when calculating housing land supply. Firstly, correctly establishing an objectively informed housing need position from the outset via up-to-date evidence, to secondly, be in a position to identify the correct unfulfilled need/surplus, for thirdly, having derived the shortfall/surplus from the subsequent sequences, pay regard to the supply of specific deliverable sites to deliver homes in the five year period to meet the identified need.

**Cherwell District Council Housing Land Supply Update (June 2014)**

- 10.2.3 The Council's current five year housing land supply position is set out in the Cherwell District Council Housing Land Supply Update, published in June 2014. This updates the Housing Land Supply Update published in May 2014 and outlines the Council's required delivery for the period 2014-2019.
- 10.2.4 Table 1 of the Housing Land Supply Update provides a calculation of the Council's current five year land supply. This suggests that the over the five year period 2014 to 2019, the Council has a 3.4 year supply with a 20% buffer. The Council also accept that the calculation should employ the Sedgefield approach due to an appeal decision at Deddington (APP/C3105/A/13/2201339). The Inspector concluded by adopting the Sedgefield methodology, the Council would be able to increase the number of sites that were available to reduce the housing deficit and minimise the risk of further deterioration in the Council's ability to meet its housing needs.
- 10.2.5 The Planning Policy Guidance document, released in March 2014, states that *"Local Planning Authorities should aim to deal with any undersupply within the first 5 years of the plan period where possible."* This advocates the use of the Sedgefield method rather than the residual Liverpool method of spreading the undersupply over the remainder of the plan period. This appeal decision concluded that the Council has, "at best, less than a 4.5 year supply of housing land." This approach to calculate the supply of housing land is backed by the Inspector's decision at Yate (APP/P0119/A/12/2186546). The Inspector concluded that:
- "There is a greater weight of evidence before me, including the findings of the Inspector who determined a mixed use development in Worcestershire (Ref. APP/H1840/A/12/2171339), to indicate that the 'Sedgefield approach' is more closely aligned with the need to boost significantly the supply of housing and remedy the unsatisfactory consequences that arise from a persistent under delivery of housing."*
- 10.2.6 The recent appeal decision at Hook Norton established that the Sedgefield approach is the appropriate method to address the significant shortfall over the next five years, rather than a residual approach across the remainder of the plan period. The Council's witness, under cross examination confirmed that a "20% buffer was appropriate due to the Council's failure to meet its annual target for new housing since 2006/07."
- 10.2.7 Gladman raise concerns over the validity of the claimed deliverable sites. A number of applications included have now expired, and unrealistic lead times have been applied to larger sites. With these corrections to the calculation, the supply is likely to be no more than 3 years against their Submission Local Plan target outlined in the Main Modifications to the Local Plan.
- 10.2.8 A number of recent appeal decisions have established that the Council cannot demonstrate a deliverable five year housing land supply. These decisions have been called in by the Secretary of State, who has backed the Inspector on each of them.

- 10.2.9 As part of this planning application, a Housing Land Supply Assessment has been produced by Hourigan Connolly in March 2014. The report confirms that CDC with an additional 20% buffer are not able to demonstrate a five year housing land supply. Against the objectively assessed need produced in the Council's SHMA, the assessment demonstrates that the Council's overall deliverable supply position is between 2.82 and 3.11 years. It is therefore clear that the Council cannot demonstrate a five year housing land supply and consequently, in accordance with paragraph 49 of the Framework, relevant policies for the supply of housing should not be considered up-to-date in determining this application and that a substantial shortfall exists

**Delivery of the Site**

- 10.2.10 Gladman can confirm that they agree to a shortened timescale and suggest 18 months to submit reserved matters with a year for implementation. This would be sufficient time to market and sell the site to a house builder and then for the preparation of the reserved matters application and Gladman are confident that the site can be delivered within the five year period.

## 11 AFFORDABLE HOUSING

### 11.1 Introduction

- 11.1.1 Delivering affordable housing has become increasingly difficult given the constraints on public finances and the spending review which has removed HCA grant funding from many affordable housing schemes.
- 11.1.2 Consequently the only meaningful way that affordable housing will be delivered is via sites such as the application proposals where sufficient land value will be generated to allow affordable housing from the proceeds of land sales. The ability of the application proposal to deliver a significant amount of affordable housing compliant with policy without grant is a significant material planning benefit – particularly in an area which has historically under provided affordable housing by a large amount.
- 11.1.3 The SHMA (2014) concludes that to meet the affordable housing need in full, Cherwell District Council will need to deliver 1,233 dwellings per annum. This is higher than the Council’s proposed annual delivery figure for the district of 670 dwellings per annum, to meet a target of 16,750 dwellings between 2006 and 2031. Between 2006 and 2013, a total of 896 new affordable dwellings were completed, which is significantly lower than the identified annual need.
- 11.1.4 The ability of the application proposals to provide affordable homes without public finance, and other necessary planning obligations, is therefore an important material consideration and significant weight should be afforded to the delivery of 35% affordable housing as part of the proposed development.

### 11.2 Tenure

- 11.2.1 The SHMA 2014 indicates a County-wide mix target of 25% intermediate; 75% affordable rent would be appropriate. In need terms, the rent composition is slightly skewed towards social rent; however, the deliverability of this in the context of national affordable housing policy and funding availability should be considered.

### 11.3 Affordable Housing Delivery

- 11.3.1 Emerging Policy BSC 3, Affordable Housing estimates that a maximum of 4392 new build affordable dwellings could be delivered in the district between 2011 and 2031. The Policy states that all proposed developments outside of Banbury, Bicester and Kidlington will be expected on developments proposing 3 or more dwellings, or which would be provided on sites suitable for 3 or more dwellings, will be expected to provide at least 35% as affordable homes on site.
- 11.3.2 The previous 2012 Cherwell Strategic Housing Market Review and Update (not intended to be a replacement for the Oxfordshire SHMA 2007) found that housing need remains high and now



stretches into higher income ranges. The document identifies a requirement for new social housing of a net need ranging from a lower estimate of 186 dwellings per annum to an upper estimate of 831 dwellings per annum. Overall the affordable housing need was estimated to be in the region of 300 dwellings per annum, which equated to 47% of the household growth based new supply.

11.3.3 However, against the estimated need of 300 dwellings per annum the affordable housing delivery in Cherwell has been inadequate in meeting the identified local need over the Draft Local Plan period. The delivery has not met the identified need in a single year since the start of the emerging document's plan period. Taking into account delivery from before the beginning of the plan period, from the end of the Cherwell Local Plan (1996-2001), affordable housing delivery rates have not met the identified need once.

11.3.4 The Final Oxfordshire SHMA 2014 found that the net affordable housing need for Cherwell stands at 407 dwellings per annum, higher than the overall estimated need of 300 dwellings in the previous SHMA (2012). The Planning Practice Guidance sets out that the total affordable housing need should be considered in the context of its likely delivery as a proportion of mixed market and affordable homes.

11.3.5 Even against the lowest estimate of the annual affordable housing need of 186 dwellings per annum, the Council has only met this requirement once, in 2011/12. Thus, the affordable housing provided by the proposed development is not only in accordance with the Council's adopted policy, but will also contribute to meeting the identified local housing need, at a sustainable location in Hook Norton.

## **11.4 Condition**

10.5.1 It is considered affordable housing is capable of being secured by condition. A draft condition based on the PINS model condition is included at Appendix 4.

## 12 PLANNING BALANCE

- 12.1.1 For the purposes of decision making it is necessary for the authority to carry out a '**planning balance**' exercise.
- 12.1.2 The starting point for the determination of this planning application is that the '**Presumption in favour of sustainable development**' is engaged and the '**Planning Balance**' exercise should be undertaken to establish whether there is any adverse impacts that would significantly and demonstrably outweigh the benefits. The clear starting point is that there is a requirement for the Council to approach this application from the basis of seeking to approve it, rather than looking for reasons for refusing planning permission.
- 12.1.3 Consideration of all the material factors that must be weighed in the Planning Balance exercise is set out below and within Appendix 5.

### 12.2 Benefits of the Scheme

#### The Presumption in Favour of Sustainable Development

- 12.2.1 Cherwell District Council have published a Five Year Housing Land Supply Assessment 2014-2019, dated June 2014, which concludes the Council are unable to demonstrate a five year supply of housing and acknowledges a 3.4 year supply. This is a significant shortfall, which in accordance with paragraph 49 of the Framework makes any housing supply related policies out-of-date. The benefits in meeting some of the identified shortfall, carry significant weight.
- 12.2.2 Paragraph 14 states the presumption in favour of sustainable development is at the heart of the Framework and should be seen as the golden thread running through both plan-making and decision-taking. For decision-takers, 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 planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits**, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.
- 12.2.3 The Planning Statement which accompanied the application set out that the proposals are sustainable development, no specific policies in the Framework indicate development should be restricted and the presumption in favour applies.

#### Five Year Housing Land Supply

- 12.2.4 The latest published position on the district's housing land supply is the Housing Land Supply Update June 2014 which was published following a change in circumstances and reflects the

Oxfordshire SHMA 2014 midpoint figure of 1140 dwellings per annum, currently considered to be the objectively assessed housing need figure for the district. It indicates that the five year supply of deliverable sites for 2014-2019 is now 3.4 years (compared to 4.9 years in the 2013 AMR). This includes a requirement for an additional 20% buffer and taking into account of the shortfall (2314 homes) within the next five years. The projection for 2015-2020 is 3.4 years supply. As set out in the Council's Housing Land Supply Update, there is a significant shortfall in housing land supply in the borough and the extent of this shortfall is a material consideration. The Hunston Court of Appeal decision supports this proposition.

### **Provision of Market Housing**

- 12.2.5 The scheme would create an additional 35 market dwellings, with substantial delivery in the next 5 years helping to rectify the deficient 5 year supply. As set out recently by the Inspector in the Offenham Decision (APP/H1840/A/13/2203924):

*"at the heart of national planning policy, the Government aims to boost significantly the supply of housing, as expressed in paragraph 47 of the Framework. More recently, the Government has referred to the existence of a nationally identified housing crisis"*

- 12.2.6 The provision of market housing to boost housing supply is therefore a clear and significant benefit of the scheme that should be afforded considerable weight.

### **Provision of Affordable Housing**

- 12.2.7 The scheme would secure the provision of policy compliant 35% affordable houses (up to 19 dwellings). The submitted Affordable Housing Statement by Level demonstrates the clear affordable housing shortage and increasing need in the District. A number of recent appeal decisions have made it clear that this represents a significant benefit (see for example APP/R0660/A/11/2158727. Loachbrook Farm, Sandbach Road) that should be afforded considerable weight in the planning balance.

### **Transport Improvements**

- 12.2.8 The principle of transport sustainability underlies the proposed development. Encouraging walk and cycle journeys is an essential component of the development access strategy. The location of the site provides opportunity for residents to undertake journeys on foot and by cycle, for a variety of purposes, including employment, leisure, shopping and school.
- 12.2.9 The development will increase the sustainability of the existing public transport service within Hook Norton, by increasing the patronage from increased housing numbers. Based on the average estimated household size for Cherwell (*source: 2011 Census: Households with at least one usual resident, household size and average household size, local authorities in the United Kingdom- Table*

H01UK) the development of 54 residential dwellings could be home to 130 new residents bringing increased spending power to Hook Norton.

### **Economic Benefits and New Homes Bonus**

- 12.2.10 The scheme will also provide significant economic benefits which are summarised below. For a full account of the social and economic benefits arising as a result of the scheme, reference should be made to the Socio Economic Report submitted as part of the planning application.
- 12.2.11 Development of the site and localised infrastructure could generate an associated spend estimated in the region of £5.7 million. Construction requiring this level of expenditure would support approximately 53 FTE jobs annually spread over a two year build-out. The scheme will deliver an additional £2.3 million of direct GVA over the build period.
- 12.2.12 Given that 35% of the site will be occupied by Affordable dwellings and the remainder of the site will comprise market housing the development should support a significant level of spending annually following completion of the development.
- 12.2.13 The proposed development in addition to affordable housing and other benefits though a S.106 and as identified within the Socio-Economic Report would be eligible for a new homes bonus in the region of £500,000.

### **Local Spending Power**

- 12.2.14 The proposed development of the application site will reinforce shops and services across Cherwell through the addition of 54 new homes and approximately 130 residents bringing with them increased retail spend and general household expenditure to support the local economy. Given the range of services within the village, a significant amount of weekly spend should be retained locally.

### **Biodiversity and Ecological Benefits**

- 12.2.15 The development's green infrastructure is based upon delivering functional well designed green spaces that enhance biodiversity and landscape character, and provide play and recreational benefits. The landscape proposals include the conservation of existing site hedges and trees wherever possible, which will be enhanced where appropriate. This will ensure that there is increased connectivity across the layout for wildlife, as well as providing long term enhancement for landscape and biodiversity.
- 12.2.16 The attenuation pond would be located along the southern boundary at the low point of the site and be designed to create an attractive landscape feature of value to wildlife and residents alike.

## **Social Benefit**

12.2.17 The proposals will deliver new homes of the right type, at the right place and at the right time to meet market and affordable housing need and in turn will support the district's growth aspirations. Without a sufficient supply of new homes the district cannot meet the needs of present or future generations. The site, as demonstrated in the sustainability matrix, is located in an accessible and sustainable location close to the key services and facilities in the town that will help to support the health, social and cultural wellbeing of Hook Norton and Cherwell District.

## **Contributions**

12.2.18 Should the scheme be approved, Gladman Developments Ltd will enter into a planning obligation for all necessary contributions (which meet the relevant statutory tests). Whilst required to make the scheme acceptable in planning terms, they represent investments in the local community, with existing residents benefiting from the additional infrastructure provided.

12.2.19 The following contributions were accepted in the previous application and Gladman are prepared to enter into a planning obligation for the following (Appendix 2):

- £33,682 per LAP
- £130,189 per LEAP
- Contribution of £862 per dwelling towards the improvement of the Chipping Norton – Banbury Bus Service
- £4,000 towards improved bus stop facilities at The Green
- £212,298 for the necessary expansion of permanent primary school capacity in the area
- £10,545 Special Education Needs
- £1,599 to improve the provision for adult learning in Banbury
- Health and Wellbeing Resource- £11,990 to improve the facility in Banbury
- £67.50 per dwelling for the provision of 3 wheelie bins per property
- Open Space provision 23m<sup>2</sup> per resident and commuted maintenance sum of £30.04m<sup>2</sup>, balancing pond commuted maintenance sum of £17.87m<sup>2</sup>, £42.86m<sup>2</sup> hedgerow maintenance and £302.34 per mature tree maintenance sum.
- A Waste Management contribution of £9,415 towards enhancement of existing facilities
- Museum Resource Centre contribution of £736
- Administration and Monitoring Payment of £3,750

## **Hook Norton CE Primary School Proposed Expansion**

- 12.2.20 Oxfordshire County Council are currently consulting on plans to expand Hook Norton CE Primary School to enable it to admit 45 pupils each academic year, rather than the current 30 pupils. The expansion would begin in September 2015, and is supported by the school's Governing Body.
- 12.2.21 As outlined above, the Gladman have shown their commitment to providing a planning obligation, at the request of the County Council in the previous application for the expansion of the school. Gladman are prepared to pay the contribution in full.
- 12.2.22 It should also be noted that the Bourne development, promoted by Taylor Wimpey has, through a signed s106 contribution, agreed to pay £474,131 towards the expansion of the current school facilities. If this application were to be allowed, the two schemes will make an extremely positive contribution to the delivery of the expansion of the school. The planning obligations will help to ensure that the school can continue to provide high quality education to the residents within its catchment area. This is a significant material benefit of the scheme.

## 12.3 Impacts of the Scheme

### Impact of Odour from Redlands Farm on the Proposed Development

- 12.3.1 The initial Odour Impact Assessment prepared by Peter Brett Associates (from the first attempt application), and the subsequent addendum both confirmed that the effect of the odour from Redlands Farm on the proposed development is considered to be **slight adverse**.
- 12.3.2 A revised Odour Assessment which has undertaken a number of surveys has been submitted alongside this application, addressing the first reason for refusal. This has considered in depth the effects of the odour upon the future residents of the scheme. The report concludes that the effect of the odour is **slight adverse**, with the proposed mitigation measures proposed as part of the application.
- 12.3.3 The Institute of Air Quality Management's Guidance on the Assessment of Odour for Planning states:
- "Where the overall effect is greater than 'slight adverse', the effect is likely to be considered significant. Note that this is a binary judgement: either it is 'significant' or it is 'not significant'. Concluding that an effect is significant should not mean, of itself, that a development proposal is unacceptable and the planning application should be refused; rather, it should mean that careful consideration needs to be given to the consequences, scope for securing further mitigation, and **the balance with any wider environmental, social and economic benefits that the proposal would bring.**"*
- 12.3.4 Odour travels largely by way of particulates. Managing particulates aides in the management of odours, through interception and retention. The strategic placing of vegetation to form a vegetative

barrier has a beneficial physical impact on odour. Regard should be had to the full Odour Impact Assessment prepared by Peter Brett Associates, to establish the effectiveness of mitigation features.

- 12.3.5 The proposed mitigation, by the inclusion of a 3 metre wide vegetative barrier adjacent to the northern boundary of the development proposal, in conjunction with the proposed 3.5 metre high acoustic fence, will further reinforce and enhance the existing vegetative barrier employed by Redlands Dairy, located between the site and the existing Dairy.
- 12.3.6 The inclusion of the additional vegetative barrier within the development proposal is likely to further reduce the slight adverse effects of the odour from the Dairy. This in turn will have a further beneficial physical impact upon the odour from the Dairy.
- 12.3.7 The impact of the odour, when weighed against the positives of the scheme, as outlined within this planning statement and within the planning balance, does not disengage the presumption in favour of sustainable development, and therefore, planning permission should be granted. The authority cannot demonstrate a five year housing land supply, and the delivery of 54 dwellings is a significant contribution to the position that Cherwell District Council are currently experiencing.

#### **Landscape Impacts**

- 12.3.8 A Landscape and Visual Impact Assessment of the proposed development has been carried out as part of an iterative design process by FPCR Environment and Design. The site lies within an 'Area of High Landscape Value'. However, it is considered that the site has a stronger relationship to existing development to the south than the wider landscape to the east and west. The proposed design has ensured that the siting and design of the development are sensitive to this designation. The development proposals include retention of existing vegetation along the site boundaries and reduced scale development and new tree and hedgerow planting where appropriate to create a low density filtered edge to the countryside.
- 12.3.9 The site itself has few features of intrinsic landscape merit and the proposals demonstrate how existing site vegetation along the site boundaries can largely be retained as an integral part of the scheme. The site also represents an opportunity for new tree planting within areas of public open space, plots and along streets. The development will not result in any significant adverse effects upon the Cotswolds AONB.
- 12.3.10 As the Officer's Report stated regarding the previous application:

*"Having regard to the above and the Landscape Officers comments, it is considered that the development proposed, which would be predominantly two storeys would not appear unduly prominent or obtrusive and therefore the visual impact of the development would not be of significant and demonstrable harm as described within the NPPF to justify refusal of the application on landscape impact and harm to the open countryside."*

### **Transport Impacts**

- 12.3.11 There is a modest increase in traffic flows in the area but the analysis in the Transport Assessment show the increase is not material. There is ample capacity available on the road network.
- 12.3.12 No objections were received from the Highways Authority for the previous application. The Officers Report stated:

*"No objections to the development have been received from the local highway authority and the proposal is unlikely to have any significant adverse impact on the local highway network and highway safety and is therefore considered acceptable in this respect."*

## **12.4 Summary**

- 12.4.1 There are numerous benefits of the scheme which should be attributed considerable weight, as well as the presumption in favour of sustainable development (which carries significant weight in the planning balance, see attached planning benefits table Appendix 5). The proposals represent sustainable development and benefit from the presumption in the NPPF.
- 12.4.2 The adverse impacts, do not when taken as a whole or cumulatively 'significantly and demonstrably' outweigh the benefits' of the scheme. The NPPF makes clear that only when a decision taker reaches the point where adverse impacts significantly and demonstrably outweigh the benefits, which is clearly not the case here, should permission be refused. None of the technical reports submitted as part of the application indicate a technical constraint preventing the site's development.
- 12.4.3 There are compelling reasons, as evidenced in this letter and throughout the applications supporting material to approve the scheme. If the Council refuse the application, it must do so by conducting a balancing exercise whereby the substantial benefits of the scheme are weighed against the impacts of the development. If a refusal is used without considering the benefits listed in this letter, the planning benefits table, and the supporting material for the application, we would consider this to constitute one of the facets of unreasonable behaviour as stated in the PPG.



## **13 SUMMARY AND CONCLUSIONS**

### **13.1 Sustainable Development**

13.1.1 This proposal represents sustainable development and as a consequence benefits from the presumption in favour of sustainable development contained in the NPPF. There are no adverse impacts that are capable of significantly or demonstrably outweighing the benefits.

### **13.2 Housing Land Supply**

13.2.1 The Council cannot demonstrate a 5 year supply of housing. The housing supply related provisions of the saved policies of the Cherwell District Local Plan are to be considered out of date. The shortfall in housing supply is substantial. The Council must also adopt a 20% buffer due to persistent under delivery of housing.

### **13.3 Affordable Housing**

13.3.1 There is a substantial need for affordable homes in Cherwell District. The proposals will provide the full range of affordable housing at a time when other schemes are unable to deliver policy compliant affordable housing.

### **13.4 Conformity with the Development Plan and Emerging Local Development Framework**

13.4.1 The Cherwell District Local Plan (1996-2001) is now significantly out of date in terms of the need to deliver housing based on the latest housing evidence. The settlement boundaries in the Local Plan will therefore need to be reviewed in any event to accommodate the level of housing now required. There cannot be an objection in principle to development outside current settlement boundaries which were defined to accommodate a lower quantum of development.

13.4.2 The proposed residential development at Hook Norton will contribute towards meeting the diverse housing needs of the District and the local needs of Cherwell, including affordable housing needs.

13.4.3 The proposals do not detract from the policy objective to maximise the re-use of vacant and under-used brownfield land and buildings. Development of greenfield land is necessary to deliver the housing growth identified for Cherwell District, and specifically for Hook Norton as a sustainable settlement in an appropriate location.

### **13.5 Neighbourhood Plan**

13.5.1 Whilst the Hook Norton Neighbourhood Plan has been approved by the Parish Council and is now progressing via Cherwell District Council, it is clear that the plan has been prepared against an out-of-date evidence base. As the Submission Cherwell Local Plan has been suspended from examination and the Neighbourhood Plan has not been examined, it cannot be considered to in

conformity with that plan and can only be given limited, if any weight. In addition, a deficient 5 year housing land supply renders policies relevant to the supply of housing out of date, in any event.

## **13.6 Conclusion**

- 13.6.1 Having demonstrated that the weight to be attached to the existing Local Plan should be reduced, and having identified the strong accordance with national planning policies, in particular NPPF and the matters of housing delivery; a deficient housing land supply and the presumption in favour of sustainable development and having established that there are no adverse impacts that would significantly and demonstrably outweigh the significant benefits to market and affordable housing that have been attributed substantial weight by Inspectors and the Secretary of State within appeal decisions; in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, it is appropriate that planning permission should be granted.

## **Appendices**

- 1** Draft proposed planning conditions
- 2** Draft S106 agreement
- 3** Sustainability matrix
- 4** Gladman Track Record Table
- 5** Planning Balance Table
- 6** Utilities Appraisal
- 7** Neighbourhood Plan Representations
- 8** Officers Report (14/00844/OUT)



**Appendix 1**

**Draft Planning Conditions**



## **Appendix 1 – Draft Conditions**

### **RESERVED MATTERS**

1. Details of the layout, scale, appearance and landscaping, including boundary treatments (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. A Reserved matters application will have been submitted within 18 months of a grant of outline permission, giving us time to market the sale of the site to a house builder, and development would then commence within the following 12 months.
3. The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
4. The reserved matters submission shall broadly accord with the principles contained in the illustrative Development Framework Plan (XXXX), Landscape Proposals Plan (XXXX) and Footpaths and Cycleways Plan (XXXX) submitted with this outline planning application.

### **LEAP**

5. The dwellings shall not be occupied until a local equipped area of play has been provided in accordance with details which have been submitted to and approved in writing by the local planning authority. That area shall not thereafter be used for any purpose other than as a play area and shall be retained in its approved form.

### **ARCHAEOLOGY**

6. Prior to any demolition and the commencement of the development a professional archaeological organisation acceptable to the Local Planning Authority shall prepare an Archaeological Written Scheme of Investigation, relating to the application site area, which shall be submitted to and approved in writing by the Local Planning Authority.
7. Following approval of the Written Scheme of Investigation referred to in condition 6, and prior to any demolition on site and the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority.

## **HIGHWAYS**

8. No development shall take place until details of the widths, finished levels, construction and drainage of the means of access to the site, internal estate roads, and any areas of hard surfacing, shall be submitted to and agreed in writing by the local planning authority. Development shall be carried out only in accordance with the approved details.
9. No development shall take place until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the local planning authority. The CTMP shall include full details of wheel washing facilities, a restriction on construction and delivery traffic during construction and a route to the development site. The development shall be carried out in accordance with the agreed CTMP.
10. Prior to the commencement of the development hereby approved, the proposed means of access between the land and the highway shall be formed, laid out and constructed in accordance with the specification of the means of access that has been submitted to and approved in writing by the local planning authority.
11. Prior to first occupation of each dwelling hereby approved, the proposed access road shall be constructed to type standards in accordance with the Oxfordshire County Council Design Guide for Residential Roads.
12. No structure or erection exceeding 1m metre in height measured from carriageway level shall be placed within the vision splays of the access to the site.
13. Development shall not commence until a drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved by, the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed.
14. Prior to first occupation a revised travel plan shall be submitted to and approved by the Local Planning Authority and thereafter shall be implemented in accordance with the approved plan.

## **AFFORDABLE HOUSING**

15. No development shall take place until a scheme for the provision of affordable housing as part of the development built to meet the Design and Quality Standards required by the Homes and Communities Agency and meet Code for Sustainable Homes Level 3 has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing outlined below. The scheme shall include:



- a. the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall be pepper-potted throughout the development and which shall consist of not less than 30% of the dwellings 65% of which shall be Affordable Rented Housing and 35% of which shall be Intermediate Housing;
- b. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing. No more than 80% of the open market dwellings shall be occupied before the affordable housing is completed and ready for occupation;
- c. the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved;
- d. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- e. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced

For the purpose of this condition, the following definitions apply:

**Affordable Housing**

*Affordable Rented Housing and Intermediate Housing provided to eligible households whose needs are not met by the market. Affordable housing should:*

- *Meet the needs of eligible households including availability at a cost low enough for them to afford, determined with regard to local incomes and local house prices*
- *Include provision for the home to remain at an affordable price for future eligible households or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision.*

**Affordable Rented Housing**

*Rented housing let by registered providers of social housing to households who are eligible for Social rented housing (as such term is referred to in the definition of "Affordable housing" contained in the glossary to the National Planning Policy Framework). Affordable Rent is not subject to the national rent regime but is subject to other rent controls that require a rent of no more than 80 percent of the local market rent.*

**Intermediate Housing**

*Housing at prices and rents above those of Social Rented Housing, but below market price or rents, and which meet the criteria set out above. These can include shared equity products (e.g. Home Buy), other low cost homes for sale and intermediate rent but does not include Affordable Rented Housing.*

*The definition of affordable housing does not exclude homes provided by private sector bodies or provided without grant funding. Where such homes meet the definition above they may be considered, for planning purposes, as affordable housing.*

## **CONTAMINATION**

16. No development shall take place until a Phase II Site Investigation shall be carried out and the results submitted to, and approved in writing by, the local planning authority. If the investigations indicate that remediation is necessary, a remediation scheme, including details of the timescale for the work to be undertaken, shall be submitted to and approved in writing by the local planning authority. The approved scheme must be carried out in accordance with its terms prior to the commencement of development (other than that required to carry out remediation) unless otherwise agreed in writing by the local planning authority. Following completion of the measures identified in the remediation scheme, 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 prior to first occupation of any dwelling on the site.

## **DRAINAGE**

17. No development shall take place until a scheme for surface water drainage has been submitted to and approved in writing by the local planning authority. The scheme shall be based on an assessment of the potential for disposing of surface water by means of a sustainable drainage system. Surface water drainage of the site shall be in accordance with the approved scheme.

## **ECOLOGY**

18. No development shall take place until an ecological management plan has been submitted to and approved in writing by the local planning authority. The management plan shall be implemented as approved.

## **ENVIRONMENTAL MANAGEMENT**

19. No development shall take place until, an Environmental Management Plan (EMP) with respect to the construction stage of the development, shall be submitted to and approved in writing by the local planning authority. No development shall take place except in complete accordance with the approved EMP.
20. No external lighting, other than within a private residential curtilage, shall be installed other than in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority.

21. No development shall take place until full details of the specific locations of the strategic planting have been agreed with the Local Authority. This includes planting schedules, noting the species, sizes and number of plants beyond the rear fences of the properties adjacent to the northern boundary to form the strategic planting buffer between the properties and the proposed 3.5 metre high acoustic fence. Details of access and maintenance of the proposed structural planting and vegetation buffer will also need to be agreed before the commencement of development.

## **ARBORICULTURE**

22. Prior to the commencement of the development hereby approved, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-
  - a. Details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
  - 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 surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps.

### **Retained Tree**

- a. No retained tree shall be cut down, uprooted, damaged or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. All tree works shall be carried out in accordance with BS3998: Recommendations for Tree Works.
  - b. If any retained tree is cut down, uprooted, destroyed or dies, another tree shall be planted in the same place in the next planting season following the removal of that tree, full details of which shall be firstly submitted to and approved in writing by the Local Planning Authority.
23. Prior to the commencement of the development hereby approved, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions (to include a tree protection plan) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS.
24. Prior to the commencement of the development hereby approved, and notwithstanding the submitted details, full details, locations, specifications and construction methods for all purpose built tree pits and associated above ground features, to include specifications for the installation of below ground, load-bearing 'cell structured' root trenches, root barriers, irrigation systems and a stated volume of a suitable growing medium to facilitate and promote the healthy development of the

proposed trees, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details and specifications.

25. Prior to the commencement of the development hereby approved, and notwithstanding the submitted details, full details, locations, specifications and construction methods for all tree pits located within soft landscaped areas, to include specifications for the dimensions of the pit, suitable irrigation and support systems and an appropriate method of mulching, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details and specifications.

**Appendix 2**  
**S106 Draft Agreement**



**DATED**

**2014**

**(1) PETER MICHAEL SMART and MARGARET ANN SHELLY**

and

**(2) GLADMAN DEVELOPMENTS LIMITED**

and

**(3) CHERWELL DISTRICT COUNCIL**

and

**(4) OXFORDSHIRE COUNTY COUNCIL**

**DRAFT S106 AGREEMENT**

**Pursuant to Section 106**

**Town and Country Planning Act 1990**

**relating to**

**Land on the East Side of  
Sibford Road  
Hook Norton**



Gladman House  
Alexandria Way  
Congleton Business Park  
Congleton, Cheshire  
CW12 1LB  
Tel: 01260 288800  
Fax: 01260 288861

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**THIS AGREEMENT** is made the        day of                      Two thousand and fourteen

BETWEEN

- (1) **PETER MICHAEL SMART** of Crushill Farm Hook Norton Oxfordshire and  
**MARGARET ANN SHELLY** of 41 Braddon Road Greens Norton Towcester  
Northamptonshire (hereinafter called "the Owner")
  
- (2) **GLADMAN DEVELOPMENTS LIMITED** (Company registration number 3341567)  
whose registered office is at Gladman House, Alexandria Way, Congleton Business  
Park, Congleton, Cheshire, CW12 1LB (hereinafter called "the Promoter")
  
- (3) **CHERWELL DISTRICT COUNCIL** of Bodicote House, Bodicote, Banbury, OX15 4AA  
(hereinafter called "the Council") and
  
- (4) **OXFORDSHIRE COUNTY COUNCIL** of County Hall, New Road, Oxford, OX1 1ND  
(hereinafter called "the County Council")

## **RECITALS**

1. The Council and the County Council are Local Planning Authorities for the purposes of Section 106 of the Act for the area within which the Land is situated
  
2. The County Council is also the highway authority and the education authority for the area in which the Land is situated
  
3. The Owner is the freehold owner of the Land more particularly described in Schedule 1 and shown edged red on the Plan and in its capacity as such owner is hereinafter referred to as "the Owner"
  
4. The Owner and the Promoter have entered into the Promotion Agreement in respect of the Land
  
5. The Application has been submitted to the Council and the Council has resolved to permit it subject to conditions and completion of this Deed

6. The Owner considers that the planning obligations set out in Schedule 2 and in Schedule 3 hereto meet the tests set out in Regulation 122(2) of the CIL Regulations
7. The parties have agreed to enter into this deed in order to secure the Planning Obligations contained in it

NOW THIS DEED WITNESSES as follows:

## **1 INTERPRETATION AND DEFINITIONS**

1.1 In this deed the following expressions shall have the following meanings:-

<b>“the Act”</b>	means the Town & Country Planning Act 1990 (as amended)
<b>“Adult Learning Centre Contribution ”</b>	means the sum of £1,599 (one thousand five hundred and ninety nine pounds) (increased by the Indexation Factor) as a contribution towards the costs of improving and providing a more sustainable adult learning facility at Banbury Adult Learning Centre
<b>“Affordable Housing”</b>	means Affordable Rented Housing and Intermediate Affordable Housing provided to eligible households whose needs are not met by the market where eligibility is determined by the Council and the RP and which: <ol style="list-style-type: none"><li>(i) remains at an affordable price for future eligible householders subject to the provisions of this deed;</li><li>(ii) comprises 35% of the total number of Residential Units constructed pursuant to the Planning Permission and of which (unless otherwise agreed in writing with the Council) 70% shall be Affordable Rented</li></ol>

Housing and 30% shall be Intermediate Housing; and

- (iii) is constructed in accordance with the Affordable Housing Standards

**“Affordable Housing Scheme”**

means the scheme submitted in accordance with the Planning Permission which shall include details of:

- (i) the numbers, type, tenure and location on the site of the Affordable Housing; and
- (ii) the timing of the construction of the Affordable Housing and its phasing in relation to the Occupancy of the Market Housing Units; and
- (iii) the arrangements for the transfer of the Affordable Housing to an RP; and
- (iv) the arrangements to ensure that such provision is affordable for both first and subsequent Occupiers of the Affordable Housing; and
- (v) the Occupancy criteria to be used for determining the identity of occupiers of the Affordable Housing and the means by which such Occupancy criteria shall be enforced; and
- (vi) the terms of a deed of nomination rights to be entered into by the Council and the RP which sets out the Council’s rights to nominate the occupiers of the Affordable Housing and the procedure for lettings and disposals of the Affordable Housing

**"Affordable Housing Standards"** means the following design criteria with which the Affordable Housing Units shall comply;

- (i) constructed to the Homes and Communities Agency Design and Quality Standards including to at least level 3 of the Code for Sustainable Homes or other comparable standards at the time of Commencement of Development
- (ii) designed to the same external design as the Market Housing Units so as to be indistinguishable from the Market Housing Units
- (iii) fifty percent of the Affordable Housing Units to be constructed to Lifetime Homes Standards

**"Affordable Housing Unit"** means any dwelling constructed on the Land for Affordable Housing.

**"Affordable Rented Housing"** means affordable rented housing as described in the definition of Affordable Rented Housing set out in the glossary to the NPPF

**"the Application"** means the application for outline planning permission for the Development registered on 27 May 2014 under application number 14/00844/OUT

**"Bus Stop Contribution"** Means the sum of £4,000 (four thousand pounds) (increased by the Indexation Factor) as a

contribution towards the costs of improving bus stop facilities at The Green

**“CIL Regulations”**

means the Community Infrastructure Levy Regulations 2010 (as amended)

**“Chargee”**

means any mortgagee or chargee of the RP or the successors in title to such mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925.

**“Chargee’s Duty”**

means the tasks and duties set out in Schedule 2 paragraph 3.5.

**“Commence Development/Commencement of Development”**

means the implementation of the Planning Permission by the carrying out of a material operation as defined by Section 56(4) of the Act Save That for the purposes of determining whether a material operation has been carried out there shall be disregarded:

- (i) ground and archaeological investigations
- (ii) surveys
- (iii) site clearance and demolition
- (iv) remediation
- (v) the erection of site fences and hoardings
- (vi) the creation of a site compound
- (vii) temporary access and haul roads
- (viii) diversion decommissioning and/or laying of the services for the supply or carriage of electricity gas water sewerage telecommunications or other utilities media or services

(ix) any operations permitted by the Town and Country Planning (General Permitted Development) Order 1995

<b>“Council Administration/Monitoring Fee”</b>	means the sum of £3,675 (three thousand six hundred and seventy five pounds ) as a contribution towards the costs of the Council in monitoring compliance with the planning obligations set out in this deed and the costs of administering the receipts of payments made pursuant to the planning obligations set out in this deed
<b>“County Council Administration Fee”</b>	means the sum of £5,000 (five thousand pounds ) as a contribution towards the costs of the County Council in administering the payments made pursuant to Schedule 3 of this deed
<b>“County Museum Resource Centre Contribution”</b>	means the sum of £736 (seven hundred and thirty six pounds) (increased by the Indexation Factor) as a contribution towards the costs of extending the County Museum Resource Centre at Standlake
<b>“Daycare Centre Contribution”</b>	means the sum of £13,200 (thirteen thousand two hundred pounds) (increased by the Indexation Factor) as a contribution towards the costs of expanding and/or improving daycare facilities in Banbury Health and Wellbeing Resource Centre
<b>“Development”</b>	means the development on the Land in accordance with the Planning Permission
<b>“Index”</b>	means the Retail Prices Index published by the Office for National Statistics or any successor

authority (or such other index replacing the same)

**“Indexation Factor”**

means the factor reflecting any change in the Index in each case calculated from the date of such publication last published prior to the date of the Planning Permission to the date of such publication immediately preceding the date when the sum to be indexed is payable or (if later) paid

**“Interest”**

means the rate of four percent above the prevailing base lending rate of National Westminster Bank PLC

**“Intermediate Housing”**

means intermediate housing as described in the definition of Affordable Housing set out in the glossary to the NPPF

**“Land”**

means land on the East side of Sibford Road Hook Norton Oxfordshire shown edged red on the Plan particulars of the title to which are set out in Schedule 1 hereto

**“LAP”**

means a single local area of play to be provided in a location and in accordance with details to be determined at the approval of Reserved Matters

**“LAP and LEAP Scheme”**

means a scheme for the provision, laying out, landscaping and equipping of the LAP and the LEAP which shall include:

- (1) details of the exact location of the LAP and the LEAP;
- (2) a timetable for carrying out the works and the planting comprised in the said laying out, landscaping and equipping of the LAP and the LEAP;

- (3) provision to ensure that the LAP and the LEAP are suitable for disabled users;
- (4) detailed provision for the maintenance of the LAP and the LEAP for a period of twelve months following its completion, such maintenance to include regular inspection; and
- (5) insurance of risks associated with the use and occupation of the LAP and the LEAP to the reasonable satisfaction of the Council until the transfer to a Management Company or to the Council

**“LAP Commuted Sum”**

means:

the sum of £33,682 (Thirty three thousand six hundred and eighty two pounds)

provided that the LAP Commuted Sum shall be increased by the Indexation Factor and is payable as a contribution towards the costs of the future maintenance and management of the LAP

**“LEAP”**

means a single local equipped area of play to be provided in a location and in accordance with details to be determined at the approval of Reserved Matters

**“LEAP Commuted Sum”**

means:

the sum of £130,189 (One hundred and thirty thousand one hundred and eighty nine pounds )



provided that the LEAP Commuted Sum shall be shall be increased by the Indexation Factor and is payable as a contribution towards the costs of the future maintenance and management of the LEAP

**“Library Contribution”**

means :

the sum of £2,942 (Two thousand nine hundred and forty two pounds)

provided further that the Library Contribution shall be shall be increased by the Indexation Factor and is payable as a contribution towards the costs of the provision of additional library stock

**“Maintenance Period”**

means a period of 12 months after the Public Open Space, the LAP and the LEAP (or relevant part thereof) has been laid out in accordance with paragraphs 1 and 2 to Schedule 2 hereto provided that where on any Phase of Development there is more than one area of Public Open Space the Maintenance Period shall not commence until the last of such areas has been so laid out

**“Management Company”**

means a private limited company which is incorporated in England and Wales, which has its registered office in England and Wales and whose primary objects permit it to maintain and renew the Public Open Space, the LAP and the LEAP

**“Market Housing Units”**

means dwellings for sale on the open market and

which are not Affordable Housing.

**“NPPF”**

means the Communities and Local Government National Planning Policy Framework dated March 2012.

**“Occupation”**

means occupation for the purposes permitted by the Planning Permission but not including occupation by personnel engaged in construction, fitting out or decoration or occupation for marketing or display or occupation in relation to security operations and “Occupy”, “Occupiers”, “Occupancy” and “Occupied” shall be construed accordingly

**“Phase of Development”**

means a phase of development which shall be in accordance with the planning conditions to which the Planning Permission is subject

**“Plan”**

means the plan annexed hereto numbered 2013-068-100

**“Planning Obligations”**

means the planning obligations specified in Schedule 2 and Schedule 3 hereto

**Promotion Agreement”**

Means a promotion agreement dated 13 March 2014 made between (1) the Owner and (2) the Promoter

**“Protected Tenant”**

means any tenant who:

- (a) has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any

equivalent contractual right) in respect of a particular Affordable Housing Unit;

(b) has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit;

(c) has been granted a shared ownership lease by the RP (or similar arrangement where a share of the Affordable Housing Unit is owned by the tenant and a share is owned by the RP) in respect of a particular Affordable Housing Unit and the tenant has subsequently purchased from the RP all the remaining shares so that the tenant owns the entire Affordable Housing Unit.

**“Planning Permission”**

means any outline planning permission for the Development granted pursuant to the Application subject to conditions

**“PUBSEC Index Linked”**

means adjusted according to the third quarter 2009 and the date when a relevant payment is made to the County Council in the PUBSEC Tender Price Index of Public Sector Building Non- Housing within the BIS Tender Price Indices made available through the Building Cost Information Service of the Royal Institution of Chartered Surveyors

**“Primary Education Contribution”**

means:

the sum of £212,298 (two hundred and twelve thousand two hundred and ninety eight pounds)

provided further that the Primary Education

Contribution shall be PUBSEC Index Linked and shall be paid as a contribution towards the costs of the expansion of Hook Norton Church of England Primary School Oxfordshire

**“Public Open Space”**

means any areas of open space and landscaping comprised in the Development which are not the LAP and the LEAP

**“Public Open Space Commuted Sum”**

means :  
the sum of £ ( ) per square metre of the Public Open Space

provided that the Public Open Space Commuted Sum shall be increased by the Indexation Factor and is payable as a contribution towards the ongoing maintenance and management of the Public Open Space

**“Public Open Space Scheme”**

means a scheme for the provision, laying out and landscaping of the Public Open Space which shall include:

- (1) a timetable for carrying out the works and the planting comprised in the layout out and landscaping and planting of each area of Public Open Space;
- (2) detailed provisions for the maintenance of the Public Open Space for a period of twelve months following its completion, such maintenance to include regular inspection; and
- (3) insurance of risks associated with the use and occupation of the Public Open Space to the reasonable satisfaction of the Council until the transfer to the Management Company or to the

Council

**“Public Transport Subsidy Contribution”**

means the sum of £46,548 (forty six thousand five hundred and forty eight pounds) (increased by the Indexation Factor) as a contribution towards the costs of improving bus services between Chipping Norton and Banbury which serve the Development

**“Reserved Matters Approval”**

means a reserved matters approval issued by the Council pursuant to an application for approval of Reserved Matters

**“Reserved Matters”**

means details of any one or more of access, appearance, landscaping, layout and scale reserved under the terms of the Planning Permission for subsequent approval

**“Residential Unit”**

means any dwelling flat or other residential unit of accommodation including Affordable Housing within the Development

**“RP”**

means a Registered Provider as defined in the Housing and Regeneration Act 2008.

**“Special Needs Education Contribution”**

means :

the sum of £10,545 (ten thousand five hundred and forty five pounds)

provided that the Special Needs Education Contribution shall be shall be PUBSEC Index Linked and is payable as a contribution towards the costs

of the expansion of the capacity of the Frank Wise School, Banbury, Oxfordshire by a total of 0.35 pupil places

**“Waste Recycling Centre Contribution”**

means the sum of £9,415 (nine thousand four hundred and fifteen pounds) (increased by the Indexation Factor) as a contribution towards the costs of the provision in Oxfordshire of infrastructure for the re-use and recycling of waste to serve the Development

- 1.2 The expressions “the Council”, “the County Council” and “the Owner” shall include their successors in title and assigns
- 1.3 Wherever the expression “the Owner” includes more than one person then the covenants on the part of the Owner herein contained shall be deemed to be joint and several
- 1.4 Words denoting an obligation on a party to do any act or matter or thing include an obligation to procure that it is done and words placing a party under a restriction include an obligation not to cause or permit or allow infringement of that restriction
- 1.5 In this Agreement:-
  - 1.5.1 words importing the singular include the plural
  - 1.5.2 words importing the masculine include the feminine and neuter
  - 1.5.3 words importing persons include companies and corporations and vice versa

## **2 LEGAL BASIS**

- 2.1 This deed is made pursuant to the Act section 106
- 2.2 The terms of this deed create planning obligations binding on the Owner pursuant to Section 106 of the Act and are enforceable as such by the Council and separately by the County Council as local planning authorities.

## **3 CONDITIONS, DURATION AND ENFORCEMENT**

### **3.1 Conditions precedent**

With the exception of clauses 4.3, 7 and 8 which shall come into effect on the date hereof the Planning Obligations in this deed are conditional and shall not come into effect until the grant of the Planning Permission and the Commencement of Development.

### **3.2 Duration**

3.2.1 This deed shall cease to have effect, in so far only as it has not already been complied with, if the Planning Permission is quashed, revoked or otherwise withdrawn or, without the consent of the Owner, it is modified by any statutory procedure or expires before the Commencement of Development.

3.2.2 No person shall be liable for any breach of any of the Planning Obligations or other provisions of this deed after parting with his interest in the Land or the part of the Land in respect of which such breach occurs, but without prejudice to liability for any subsisting breach arising before parting with that interest.

### **3.3 Other development**

3.3.1 Nothing in this deed shall prohibit or limit the right to develop any part of the Land in accordance with a planning permission (other than the Planning Permission or a Reserved Matters Approval) granted (whether or not on appeal) after the date of this deed.

3.3.2 In the event that any new planning permission(s) are granted by the Council pursuant to Section 73 of the 1990 Act (as amended) and unless otherwise agreed between the Parties:

3.3.2.1 the obligations in this Agreement shall relate to and bind any subsequent planning permission(s) in respect of the Land granted pursuant to Section 73 of the 1990 Act and the land itself without the automatic need to enter into any subsequent deed of variation or new agreement pursuant to Section 106 of the 1990 Act

3.3.2.2 the definition of Application, Development and Planning Permission in this Agreement shall be construed to include reference to any application under Section 73 of the 1990 Act, the planning permission(s) granted thereunder and the development permitted by such subsequent planning permission(s); and

3.3.2.3 this Agreement shall be endorsed with the following words in respect of any future Section 73 application

"The obligations in this Agreement relate to and bind the land in respect of which a new planning permission referenced [ ] has been granted pursuant to Section 73 of the Town and Country Planning Act 1990 (as amended)

**provided that** nothing in this clause shall fetter the discretion of the Council in determining any application(s) under Section 73 of the 1990 Act or the appropriate nature and/or quantum of Section 106 obligations in so far as they are materially different to those contained in this Deed and required pursuant to a determination under Section 73 of the Act whether by way of a new deed or supplemental deed pursuant to Section 106 of the 1990 Act

#### 3.4 **Non-enforcement**

The Planning Obligations contained in this deed shall not be binding upon or enforceable against:

3.4.1 any statutory undertaker or other person who acquires any part of the Land or any interest in it for the purposes of the supply of electricity, gas, water, drainage telecommunication services or public transport services;



3.4.2 any bona fide purchaser and/or occupier of a Residential Unit (other than Affordable Housing Units as set out in Schedule 2, Part 1, Paragraph 3) erected on the Land or its or their mortgagee PROVIDED HOWEVER THAT it is intended that the restrictions on Occupations of Residential Units shall be enforceable against such persons;

#### **4 OWNER'S COVENANTS WITH THE COUNCIL AND THE COUNTY COUNCIL**

4.1 The Owner covenants with the Council to bind its interest in the Land as set out in Schedule 2 hereto

4.2 The Owner covenants with the County Council to bind its interest in the Land as set out in Schedule 3 hereto

4.3 The Promoter acknowledges and declares that this Agreement has been entered into by the Owner with its consent and that the Land shall be bound by the Planning Obligations

#### **5 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT**

Nothing in this deed shall create any rights in favour of any person pursuant to the Contracts (Rights of Third Parties) Act 1999.

#### **6 NOTICES**

6.1 Any notice or other written communication to be served upon a party or given by one party to any other under the terms of this deed shall be deemed to have been validly served or given if delivered by hand or sent by recorded delivery post to the party upon whom it is to be served or to whom it is to be given or as otherwise notified for the purpose by notice in writing.

6.2 The address for any notice or other written communication shall be within the United Kingdom.

6.3 A notice or communication shall be served or given:

- 6.3.1 on the Owner and the Promoter at the addresses set out above or such other address as shall be notified in writing to the Council and the County Council from time to time;
- 6.3.2 on the Council and the County Council at the addresses set out above for the attention of the Head of Public Protection and Development Management (reference 14/00844/OUT) in the case of the Council or such other address or person as shall be notified in writing to the Owner from time to time
- 6.4 Any notice or other written communication to be given by the Council or the County Council shall be deemed valid and effectual if on its face it is signed on behalf of the Council or the County Council by an officer or duly authorised signatory.

## **7 CHANGE OF OWNERSHIP ETC**

The Owner agrees with the Council and the County Council:

- 7.1 to give the Council and separately the County Council immediate written notice of any change in ownership of any of their interests in the Land occurring before all the obligations under this Deed have been discharged such notice to give details of the transferee's full name and registered office if a company or usual address if not together with the area of the Land purchased by reference to a plan PROVIDED THAT this obligation shall not apply to the sale of individual Residential Units
- 7.2 to give the Council and separately the County Council notice in writing of:
  - 7.2.1 the intended date of Commencement of Development fourteen days before that date;
  - 7.2.2 the actual date of Commencement of Development within fourteen days of its occurrence;
  - 7.2.3 the intended date of Occupation of the 1<sup>st</sup> Residential Unit in the Development fourteen days before that date;

- 7.2.4 the actual date of Occupation of the 1<sup>st</sup> Residential Unit in the development within fourteen days of its occurrence
- 7.2.5 the intended date of Occupation of the 27<sup>th</sup> Residential Unit in the Development fourteen days before that date
- 7.2.6 the actual date of Occupation of the 27<sup>th</sup> Residential Unit in the Development within fourteen days of its occurrence
- 7.2.7 the intended date of Occupation of 75% of the Residential Units in the Development fourteen days before that date
- 7.2.8 the actual date of Occupation of 75% of the Residential Units in the Development within fourteen days of its occurrence;
- 7.2.9 the intended date of Occupation of 95% of the Residential Units in the Development fourteen days before that date
- 7.2.10 the actual date of Occupation of 95% of the Residential Units in the Development within fourteen days of its occurrence.
- 7.3 to notify to the Council and separately to the County Council in writing within twenty one days of each of 1 January, 1 April, 1 July and 1 October the number of Residential Units on the Development which have been Occupied on that quarter day and their addresses/plot numbers together with a plan showing plot numbers and each notification shall identify the Residential Units Occupied during the preceding quarter and also include an estimate of the number of first Occupations that will occur for the year from the relevant quarter day.

## **8 JURISDICTION AND LEGAL EFFECT**

- 8.1 This deed shall be governed by and interpreted in accordance with the law of England and Wales.
- 8.2 In so far as any clause or clauses of this deed are found (for whatever reason) to be invalid, illegal or unenforceable, that invalidity, illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this deed.

8.3 No waiver (whether expressed or implied) by the Council or the County Council of any breach or default in performing or observing any of the covenants terms or conditions of this deed shall constitute a continuing waiver and no such waiver shall prevent the Council or the County Council from enforcing any of the relevant terms or conditions or from acting upon any subsequent breach or default.

8.4 The provisions of this deed (other than this clause 8.4 which shall be effective in any event) shall be of no effect until this deed has been dated.

## **9 INTEREST AND VAT**

9.1 If any payment due under this deed is paid late, Interest shall be payable from the date payment is due to the date of payment and such Interest shall be compounded annually.

9.2 All consideration given in accordance with the terms of this deed shall be exclusive of any value added tax properly payable.

## **10 LOCAL LAND CHARGE**

The parties to this deed acknowledge that this deed shall be registered as a local land charge in the Register of Local Land Charges maintained by the Council.

## **11 INDEMNITY**

The Promoter (to the extent that the Owner has not been released from the planning obligations set out in this deed pursuant to clause 3.3.2 of this deed) hereby indemnifies and shall keep indemnified the Owner during the term of the Promotion Agreement against all or any actions, judgements, penalties, damages, loses, costs, claims, expenses, liabilities and demands arising from the obligations of the Owner under this deed and any breach or non-performance of those obligations

**IN WITNESS** whereof the Owner and the Promoter have executed this Agreement as a deed the day and year first before mentioned

## SCHEDULE 1

### Title and Site Description

<b>DESCRIPTION</b>	<b>FREEHOLD OWNER</b>
Land on the East side of Sibford Road Hook Norton Oxfordshire being land registered at the Land Registry with absolute title under title number ON180016	Peter Michael Smart and Margaret Ann Shelly

## **SCHEDULE 2**

### **The Owner's Covenants with the Council**

#### **1. Public Open Space**

- 1.1 Not to Commence Development on the Land until the Public Open Space Scheme has been submitted to and approved in writing by the Council pursuant to the Planning Permission
  
- 1.2 Not to Commence Development on the Land until the details of the proposed terms for the long term maintenance and management of the Public Open Space have been approved in writing by the Council pursuant to the Planning Permission provided that in the event that the Owner intends to transfer the Public Open Space to a Management Company the proposed terms to be agreed by the Council shall include a method statement detailing how funding will be provided to the Management Company to cover maintenance costs of the Public Open Space in perpetuity and a specification for the standards of maintenance of the Public Open Space
  
- 1.3 To lay out and complete the Public Open Space in accordance with the approved Public Open Space Scheme and thereafter to maintain the Public Open Space at its own cost in accordance with the approved Public Open Space Scheme and the maintenance details approved pursuant to paragraph 1.2 above until the Public Open Space has been transferred to a Management Company or to the Council in accordance with the details referred to at paragraph 1.2 of this Schedule and on the terms set out in Schedule 4 hereto

PROVIDED ALWAYS that in the event that the Owner is in breach of this covenant which the Owner fails to take steps to rectify within twenty eight (28) days of receipt of written notice from the Council giving details of the nature of the breach and the steps that the Council requires the Owner to take to rectify the breach the Owner agrees that the Council may enter onto the Land and the area of Public Open Space together with relevant personnel and equipment to ensure the performance of the obligations contained in this covenant and agrees that the

Council shall be entitled to full reimbursement by the Owner of all costs and expenses incurred in performing the said obligations

- 1.4 To carry out all work to the Public Open Space in a good and workmanlike manner to the reasonable satisfaction of the Council strictly in accordance with the approved Public Open Space Scheme and all materials used shall be of the quality and standard of that previously agreed as part of the approved scheme
- 1.5 Not to permit the Occupation of more than seventy five percent (75%) of the Residential Units on any Phase of Development until after any Public Open Space to be located on that Phase of Development has been laid out and completed to the reasonable satisfaction of the Council in accordance with the approved Public Open Space Scheme
- 1.6 Not to permit the Occupation of more than ninety five percent (95%) of the Residential Units on any Phase of Development until any Public Open Space to be located on that Phase of Development has been transferred to a Management Company or to the Council in accordance with the details referred to at paragraph 1.2 of this Schedule and on the terms set out in Schedule 4 hereto
- 1.7 Will not at any time use the Public Open Space or cause or permit the Public Open Space to be used for any purpose other than as public open space (and the words "any other purpose" shall include using the subsoil of the Public Open Space for the laying of services unless so agreed by the Council in approving any conditions pursuant to the Planning Permission or in approval of Reserved Matters or otherwise and using the Public Open Space for the storage of materials, the parking of cars and/or other vehicles or as a site compound or for any other purpose detrimental to the structure of the soil or existing vegetation)
- 1.8 If the Public Open Space is to be transferred to the Council then:
  - 1.8.1 the Public Open Space shall be maintained to its original completed standard by the Owner for the Maintenance Period
  - 1.8.2 not less than two months prior to the expiry of the Maintenance Period the Owner shall request the Council in writing to inspect the Public Open Space and shall following such inspection carry out such remedial works to the Public Open Space as are reasonably required by the Council (including the replacement of any dead

or dying trees or shrubs) by the expiration of the Maintenance Period or within such longer period as shall be agreed between the Council and the Owner

1.8.3 at the expiration of the Maintenance Period and following completion to the Council's reasonable satisfaction of any remedial works required by the Council pursuant to paragraph 1.8.2 above the Owner shall offer to transfer the Public Open Space to the Council for a consideration of One Pound on the terms set out in Schedule 4 hereto and the Owner shall without delay use all reasonable endeavours to effect such transfer

1.8.4 not later than the transfer of the Public Open Space in accordance with the preceding paragraph the Owner shall pay to the Council the Public Open Space Commuted Sum

1.9 If the Public Open Space is to be transferred to a Management Company then the Owner will procure that the Management Company enters into a deed of covenant with the Council pursuant to which the Management Company covenants to carry out or procure the carrying out of the management and maintenance of the Public Open Space in accordance with the approved Public Open Space Scheme and the maintenance specification approved pursuant to paragraph 1.2 of this part of this Schedule at its own expense in perpetuity and the Public Open Space shall not be transferred to a Management Company until such deed of covenant with the Council has been entered into

## **2. LAP and LEAP**

2.1 Not to Commence Development on the Land until the LAP and LEAP Scheme has been submitted to and approved in writing by the Council pursuant to the Planning Permission

2.2 Not to Commence Development on the Land until the details of the proposed terms for the long term maintenance and management of the LAP and the LEAP have been approved in writing by the Council pursuant to the Planning Permission provided that in the event that the Owner intends to transfer the LAP and the LEAP to a Management Company the proposed terms to be agreed by the Council shall include a method statement detailing how funding will be provided to the Management Company to cover maintenance costs of the LAP and the LEAP in



perpetuity and a specification for the standards of maintenance of the LAP and the LEAP

- 2.3 To construct equip and complete the LAP and the LEAP in accordance with the approved LAP and LEAP Scheme and thereafter to maintain the LAP and the LEAP at its own cost in accordance with the approved LAP and LEAP Scheme and the maintenance details approved pursuant to paragraph 2.2 above until it has been transferred to a Management Company or the Council in accordance with the details referred to at paragraph 2.2 of this Schedule and on the terms set out in Schedule 4 hereto

PROVIDED ALWAYS that in the event that the Owner is in breach of this covenant which the Owner fails to take steps to rectify within twenty eight (28) days of receipt of written notice from the Council giving details of the nature of the breach and the steps that the Council require the Owner to take to rectify the breach the Owner agrees that the Council may enter onto the Land and the area of the LAP and the LEAP together with relevant personnel and equipment to ensure the performance of the obligations contained in this covenant and agrees that the Council shall be entitled to full reimbursement by the Owner of all costs and expenses incurred in performing the said obligations

- 2.4 To carry out all work to the LAP and the LEAP in a good and workmanlike manner to the reasonable satisfaction of the Council strictly in accordance with the approved LAP and LEAP Scheme and all materials used shall be of the quality and standard of that previously agreed as part of the approved scheme

- 2.5 Not to permit the Occupation of more than seventy five percent (75%) of the Residential Units until the LAP and the LEAP have been laid out and completed to the reasonable satisfaction of the Council in accordance with the approved LAP and LEAP Scheme

- 2.6 Not to permit the Occupation of more than ninety five percent (95%) of the Residential Units until the LAP and the LEAP have been transferred to a Management Company or to the Council in accordance with the details referred to at paragraph 2.2 of this Schedule and on the terms set out in Schedule 4 hereto

- 2.7 If the LAP and the LEAP are to be transferred to the Council then:
- 2.7.1 the LAP and the LEAP shall be maintained to its original completed standard by the Owner for the Maintenance Period
- 2.7.2 not less than two months prior to the expiry of the Maintenance Period the Owner shall request the Council in writing to inspect the LAP and the LEAP and following such inspection carry out such remedial works to the LAP and the LEAP as is reasonably required by the Council by the expiry of the Maintenance Period or within such longer period as is agreed between the Owner and the Council
- 2.7.3 at the expiration of the Maintenance Period and following completion to the Council's reasonable satisfaction of any remedial works required by the Council pursuant to paragraph 2.7.2 above the Owner shall offer to transfer the LAP and the LEAP to the Council for a consideration of One Pound on the terms set out in Schedule 4 hereto
- 2.7.4 Not later than the transfer of the LAP and the LEAP in accordance with the preceding paragraph the Owner shall pay to the Council the LAP Commuted Sum and the LEAP Commuted Sum
- 2.8 If the LAP and the LEAP is to be transferred to a Management Company then the Owner will procure that the Management Company enters into a deed of covenant with the Council pursuant to which the Management Company covenants to carry out or procure the carrying out of the management and maintenance of the LAP and the LEAP in accordance with the approved LAP and LEAP Scheme and the maintenance specification approved pursuant to paragraph 2.2 of this part of this Schedule at its own expense in perpetuity and the LAP and the LEAP will not be transferred to the Management Company until such deed of covenant with the Council has been entered into

### **3. Affordable Housing**

- 3.1 Not to Commence Development on any Phase of Development until the Affordable Housing Scheme in respect of that Phase of Development has been submitted to and approved in writing by the Council pursuant to the Planning Permission

- 3.2 No more than 60% of the Market Housing Units on any Phase of Development shall be Occupied until all of the Affordable Housing Units to be provided on that Phase of Development have been constructed in accordance with the Planning Permission and made ready for residential occupation, and written notification of that has been received by the Council.
- 3.3 the Affordable Housing Units shall not be used other than for Affordable Housing, save that this obligation shall not be binding on:
- 3.3.1 any Protected Tenant, any mortgagee or chargee of a Protected Tenant or any person deriving title from a Protected Tenant, or any successor in title to a Protected Tenant and their respective mortgagees and charges; or
  - 3.3.2 any Chargee provided that he has first complied with the Chargee's Duty; or
  - 3.3.3 any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor.
- 3.4 No more than 60% of the Market Housing Units on any Phase of Development shall be Occupied until the Affordable Housing Units to be provided on that Phase of Development have been transferred to the RP for a nominal consideration and the transfer to the RP shall include the following:
- (i) the grant by the Owner to the RP of full and free rights of access both pedestrian and vehicular from the public highway to the Affordable Housing;
  - (ii) the grant by the Owner to the RP of full and free rights to the passage of water soil electricity gas and other services through the pipes drains channels wires cables and conduits which shall be in the adjoining land up to and abutting the boundary to the Affordable Housing all such services to be connected to the mains
  - (iii) a reservation of all rights of access and passage of services and rights of entry reasonably necessary for the purposes of the Development
  - (iv) a covenant by the RP with the Owner not to use the Affordable Housing other than for Affordable Housing other than by any Protected Tenant or

any mortgagee or chargee of the Protected Tenant or any person deriving title from the Protected Tenant or any successor in title thereto and their respective mortgagees and chargees, or any purchaser from a mortgagee of an individual Affordable Housing Unit pursuant to any default by the individual mortgagor

3.5 The Chargee shall, before seeking to dispose of the Affordable Housing Units pursuant to any default under the terms of its mortgage or charge, give not less than 3 months' prior written notice to the Council of its intention to dispose, and the following provisions shall apply, provided that the rights and obligations in this paragraph shall not require the Chargee to act contrary to its duties under the charge or mortgage:

3.5.1 If the Council responds within 3 months from receipt of the Chargee's notice and indicates that arrangements for the transfer of the Affordable Housing Units can be made in such a way as to safeguard them as Affordable Housing, the Chargee shall co-operate with those arrangements and use its reasonable endeavours to secure the transfer;

3.5.2 If the Council or any other person cannot within 3 months of the date of service of its response under paragraph 3.5.1 secure the transfer then, provided that the Chargee has complied with its obligations under paragraph 3.5, the Chargee shall be entitled to dispose of the Affordable Housing Units free of the restrictions set out in this paragraph 3.5 which shall then cease to apply to those units;

3.5.3 If the Council does not serve its response to the Chargee's notice within 3 months, the Chargee shall be entitled to dispose of the Affordable Housing Units free of the restrictions set out in this paragraph 3.5 which shall then cease to apply to those units.

#### **4. Council Administration/Monitoring Fee**

**4.1 Prior to the first Occupation of the 1<sup>st</sup> Residential Unit to pay the Council Administration/Monitoring Fee to the Council and not to cause or permit any Residential Unit to be Occupied until the Council Administration/Monitoring Fee has been paid in full to the Council**

## **SCHEDULE 3**

### **The Owner's Covenants with the County Council**

**1. Public Transport Subsidy Contribution**

Prior to the first Occupation of the 1st Residential Unit to pay the Public Transport Subsidy Contribution to the County Council

**2. Bus Stop Contribution**

Prior to the first Occupation of the 1<sup>st</sup> Residential Unit to pay the Bus Stop Contribution to the County Council

**3. Adult Learning Centre Contribution**

Prior to the first Occupation of the 1<sup>st</sup> Residential Unit to pay the Adult Learning Centre Contribution to the County Council

**4. Day Care Centre Contribution**

Prior to the first Occupation of the 1st Residential Unit to pay the Day Care Centre Contribution to the County Council

**5. Waste Recycling Centre Contribution**

Prior to the first Occupation of the 1st Residential Unit to pay the Waste Recycling Centre Contribution to the County Council

**6. Special Needs Education Contribution**

Prior to the first Occupation of the 1st Residential Unit to pay the Special Needs Education Contribution to the County Council

**7. County Council Administration Fee**

Prior to the first Occupation of the 1st Residential Unit to pay the County Council Administration Fee to the County Council

**8. Library Contribution**

Prior to the first Occupation of the 1st Residential Unit to pay the Library Contribution to the County Council

**9. Primary Education Contribution**

9.1 Prior to the first Occupation of the 1st Residential Unit to pay 50% of the Primary Education Contribution to the County Council

9.2 Prior to the first Occupation of the 27th Residential Unit to pay the balance of the Primary Education Contribution to the County Council

## **SCHEDULE 4**

### **Provisions relating to the transfers of the Public Open Space the LAP and the LEAP**

All transfers of the Public Open Space and the LAP and the LEAP from the Owner to a Management Company or to the Council shall (unless otherwise agreed in writing by the Council):-

- (a) Be transfers of the entire freehold interest
- (b) Be without financial cost to the Council including legal costs
- (c) Be free from any pre-emption or option agreement
- (d) Be subject to a restriction prohibiting the use of the land for any purpose other than as public open space for recreational amenity
- (e) Be free from any mortgage charge lien or such other encumbrance which materially prejudices the unrestricted use of the Public Open Space the LAP and the LEAP for their designated purposes other than the covenant referred to in paragraph (c) of this Schedule
- (f) Include the grant of a right of way at all times and for all purposes with or without vehicles over all access roads and paths comprised or to be comprised within the Development as are necessary for the proper use enjoyment maintenance and management of the Public Open Space the LAP and the LEAP
- (g) Reserve in favour of the Owner all necessary rights and easements to enable the proper construction, maintenance and use of the Development
- (h) Contain a declaration that any boundary structure separating the Public Open Space the LAP and the LEAP from any other part of the Land shall belong to and be forever thereafter maintained by the owner for the time being of such other part of the Land

## **SCHEDULE 5**

### **Council Covenants**

#### **1. The Council Covenants**

- 1.1 To use the LAP Commuted Sum the LEAP Commuted Sum and the Public Open Space Commuted Sum and the Council Administration/Monitoring Fee for the purpose specified in respect of them in clause 1.1 and for no other purpose and to keep all contributions received in an interest bearing account
- 1.2 To repay to the person who paid it any contribution or part thereof which has not been expended or committed to be spent (either by the letting of a contract or by allocation to an approved scheme) for the specified purpose within 5 years from the date including the date of payment together with accrued Interest from the date of payment to the date of refund
- 1.3 At the expiration of 5 years from the date of receipt of any contribution (or instalment thereof) the Council shall provide the Owner upon a written request a certified account detailing how those monies have been expended or have been committed to be spent
- 1.4 To the extent that the information provided by the Council pursuant to paragraph 1.3 does not reasonably demonstrate that the monies have been expended on the relevant specified purpose the Council shall provide to the Owner such evidence as the Owner shall reasonably require in order to confirm the Council's expenditure of the sums paid by the Owner pursuant to this deed and to the extent that either no proper evidence of such expenditure is provided or that any sums expended or committed to be spent have not been reasonably and properly expended or committed to be spent for the specified purpose then the Council shall refund any such sums to the person who paid the relevant contribution together with accrued interest from the date of payment to the date of refund within 1 month



## **SCHEDULE 6**

### **County Council Covenants**

#### **1. The County Council Covenants**

- 1.1 To use the Public Transport Subsidy Contribution, the Bus Stop Contribution, the Adult Learning Centre Contribution, the Day Care Centre Contribution, the Waste Recycling Centre Contribution, the Special Needs Education Contribution, the County Council Administration Fee, the Library Contribution and the Primary Education Contribution for the purpose specified in clause 1.1 and for no other purpose and to keep all contributions received in an interest bearing account
- 1.2 To repay to the person who paid it any contribution or part thereof which has not been expended or committed to be spent (either by the letting of a contract or by allocation to an approved scheme) for the specified purpose within 5 years from the date including the date of payment together with accrued Interest from the date of payment to the date of refund
- 1.3 At the expiration of 5 years from the date of receipt of any contribution (or instalment thereof) the County Council shall provide the Owner upon a written request a certified account detailing how those monies have been expended or have been committed to be spent
- 1.4 To the extent that the information provided by the County Council pursuant to paragraph 1.3 does not reasonably demonstrate that the monies have been expended on the relevant specified purpose the County Council shall provide to the Owner such evidence as the Owner shall reasonably require in order to confirm the County Council's expenditure of the sums paid by the Owner pursuant to this deed and to the extent that either no proper evidence of such expenditure is provided or that any sums expended or committed to be spent have not been reasonably and properly expended or committed to be spent for the specified purpose then the County Council shall refund any such sums to the person who paid the relevant contribution together with accrued interest from the date of payment to the date of refund within 1 month

SIGNED as a deed by

**PETER MICHAEL SMART**

.....

in the presence of

.....

(Witness name)

.....

.....

.....

(Witness address)

.....

(Occupation)

SIGNED as a deed by

**MARGARET ANN SHELLY**

.....

in the presence of

.....

(Witness name)

.....

.....

.....

(Witness address)

.....

(Occupation)

EXECUTED as a deed by **GLADMAN**

**DEVELOPMENTS LIMITED** acting by

a director

.....

Director

in the presence of:

Signature of Witness

Name of Witness

Address of Witness

Occupation of Witness

THE COMMON SEAL of  
CHERWELL DISTRICT COUNCIL  
Was affixed to this Deed in the presence of:

Authorised signatory

THE COMMON SEAL of  
OXFORDSHIRE COUNTY COUNCIL  
Was affixed to this deed in the presence of:

Authorised signatory



## **Appendix 3**

### **Hook Norton Sustainability Matrix**



## Gladman Sustainability Matrix – Sibford Road, Hook Norton, Cherwell District

Sustainability Criterion	Factor	Sustainability Outcome	Commentary	Document Reference
<b>1</b> <b>Primary Check List</b>	Is the site outside Green Belt, National Park, AONB and other protected landscapes?	✓	The site is not located in Green Belt, National Park or AONB	See Landscape and Visual Assessment and comments of the Council's Landscape Officer
	The scheme does not affect a wildlife sensitive location – SSSI, SNIC, LNR?	✓	The site is not located within, nor located adjacent to any of these designations.	See Ecological Assessment
	Will the site contribute to a shortfall in the 5-year housing land supply?	✓	Cherwell District cannot demonstrate a deliverable five year housing land supply, and therefore the proposed site will make a significant contribution to the supply of housing within the District. The Housing Land Supply Update June 2014 indicates that the deliverable supply of sites is now 3.4 years.	See Appeal Decision
	the site is: Available	✓	Yes	See Planning Statement
	the site is: Suitable	✓	Yes	See Planning Statement
	the site is: Achievable	✓	Yes	See Planning Statement
	Does the scheme accord with delivery of the Council's Regeneration Strategy?	✓	Proposals do not detract from the policy objective to maximise the re-use of vacant and under-used brownfield land and buildings. Development of green field land is necessary to deliver the housing growth for Cherwell District and Hook Norton is identified as an appropriate location in this regard.	See Planning Statement
<b>2</b> <b>Sustainable Settlement and Location</b>	Is the site adjoining or within a recognised Sustainable Settlement or Location for Growth in LPA Policy?	✓	Hook Norton is recognised as a Category A village in the submission Local Plan. Hook Norton is a sustainable settlement which can take more growth.	See Planning Statement
	<i>What makes this location sustainable?</i> Accessibility to local and neighbourhood facilities within or just beyond the 800m walking distance.- maximum acceptable walking distance (IHT)		ATM 865m to Select and Save Amenity Area 773m at the Park Early Years Care Provision 818m to Hook Norton Playgroup Food shop 865m to Select and Save Primary school 183m to Hook Norton Primary School Bus Stop 528m to bus stop Pub 850m to The Sun Inn 1316m to The Pear Tree Inn GP Surgery 931m to Hook Norton Surgery Dental Surgery 797m to Lionhouse Dental Practice Fire Station 576m to Hook Norton Fire Station Post Office 685m to Post Office and Stores Shopping hub (5+ shops) 794m Neighbourhood Centre Sports Facility 877m to Hook Norton Sports and Social Club Church 852m to St Peters Church 1011m to Hook Norton Baptist Church Library 936m to Hook Norton Library Community Centre 554m to Memorial Hall Small Park 773m to a Children's Park	See Design and Access Statement and Transport Assessment
	<i>What makes this location sustainable?</i> Accessibility to district services within or just beyond the 2,000m walking distance - maximum distance commutable for walking (IHT)		Train Station 15274m to Banbury Railway Station Secondary School 7563m to Chipping Norton School College/Higher Education 7563m to Chipping Norton School Leisure / Arts Centre 7563m to Chipping Norton School Large Park 8563m to Over Norton Park District Centre 15,500m to Banbury Supermarket 7242m to Chipping Norton Sainsbury's District Sports Facility 877m to Hook Norton Sports and Social Club Employment Area 9897m to Chipping Norton Business Park Bank 7242m to Cheltenham and Gloucester, HSBC, and TSB Bank	See Design and Access Statement and Transport Assessment
	Development restricted to flood zone 1 / able to contain rainfall from 1:100 year rain events	✓	The site is not located within a flood risk area.	See FRA

	Areas of ecological and geological interest are unaffected / mitigated by the proposals	✓	The development is not close to areas of ecological or geological interest and will result in no net loss to biodiversity.	See Ecological Report
	Development at this location will not lead to an avoidable loss of Best and Most Versatile (BMV) agricultural soils?	✓	The proposal will not result in the loss of best and most versatile land.	See Soils Resources Report
	Additional capacity provided to ensure existing education / medical facilities will cope	✓	Discussions will take place to establish whether a contribution is required to increase the capacity of existing educational and medical facilities.	Statement of Community Involvement
<b>3 Sustainable Transport</b>	All homes within 5km of long distance public transport services (railway station/bus service)	✓	The 488 service runs between Chipping Norton, Hook Norton, Bloxham and Banbury and runs hourly Monday-Saturday. Banbury Station offers rail services to Birmingham, Bournemouth, Manchester, Coventry, Stoke-On-Trent, Oxford, London, Edinburgh and Leeds.	See Transport Assessment
	Development site within 800m of hourly bus service	✓	Yes, Hourly bus services to Banbury and Chipping Norton. Earliest departure to Banbury at 07:23, with a journey time of 27 minutes. 18:05 is the latest inbound service returning to Hook Norton.	See Transport Assessment and Travel Plan
	Simple street pattern of indicative scheme gives priority to pedestrians and cyclists linking outwards to as many local facilities, public transport and natural green spaces as possible.	✓	Site has been designed to link as much as possible with neighbouring footpaths.	See Design & Access Statement
	Travel Plan Co-ordinator to provide site-specific Travel Pack detailing measures to reduce car-reliance and give access to lift share	✓	A Travel Pack will be prepared for new residents.	See Transport Assessment and Travel Plan
	High quality paving materials used to control traffic speed, encourage shared-use, amenity, recreation and community	✓	Pavements and shared surfaces will be prepared to provide a pedestrian friendly environment and reduce traffic speeds.	See Design & Access Statement
<b>4 Economic Benefits</b>	Does the scheme promote aims of Planning for Growth?	✓	The proposals are consistent with Planning for Growth, see below.	See Planning Statement
	Benefits to LPA: New Homes Bonus, Council Tax revenue, CIL / S106 contributions; Job creation (f/t, p/t), Economic value of works	✓	Benefits associated with the provision of up to 54 dwellings.	See Planning Statement
	Proposal that increases the viability and reinforces the sustainability of local businesses and facilities.	✓	The viability of small and medium sized businesses in Hook Norton will be enhanced considerably by the increase in local population. Pedestrian access routes tie into the existing network, increasing footfall past local shops.	See Planning Statement
	Existing dwellings within settlement benefiting from increased sustainability by provision of new facilities on-site	✓	Provision of new open space will be made easily and readily available to both the new development and the surrounding housing.	
<b>5 Housing</b>	Does the provision of Affordable Housing distributed throughout the site contribute to the major local shortfall of affordable housing	✓	Affordable housing is not to be grouped or pushed to the site boundaries but appropriately pepper potted throughout the development and positioned in close proximity to local facilities.	See Affordable Housing Statement
	Diversity of housing stock: • flexibility within homes to enable home-working • Achieve Lifetime Homes standard in all social housing and other tenures	✓	Proposal promotes the highest quality sustainable design, creating a 'place' which is both safe and attractive and which enhances quality of life, health and social well-being, supporting 'building for life' and 'lifetime homes'.	See Design & Access Statement
	Meet Local Housing needs, maintain land supply and reduce waiting lists by providing a range of types, sizes and tenures of market housing based on socio-economic demographics.	✓	Proposal provides a choice of housing size and tenure in order to help create a mixed community, including provision of affordable housing.	See Affordable Housing Statement
<b>6 Education, Community &amp; Sports provision affecting quality of life</b>	Enable safe routes to schools	✓	The proposal is adjacent to the existing school in Hook Norton.	
	Will create a balanced community by increasing affordability and introducing a younger demographic of working age population.	✓	The site's close proximity to existing facilities provides easy access to existing community amenities including educational, health and retail facilities.	
<b>7 Linkages Integration Design (Intrinsic Factors)</b>	A high quality built environment with a network of connected streets with active frontages responsive to local vernacular as reference points for design	✓	The site specifically does not seek to create, or generate a pastiche of what has gone before, but instead to look forward to contemporary sustainable design solutions which effectively integrate into the existing fabric of Hook Norton by way of referencing common building materials, layout and street hierarchy.	See Design & Access Statement
	Provide multi-functional green spaces on-site achieving Local Plan and / or NPFA standards for recreation and play space, incorporating • Local landscape features, • Existing vegetation / native planting scheme	✓	The site's landscape and ecological assets, and the conservation of natural resources are important both in terms of minimising the impact of development within the site but also in setting the development within its wider context.	See Design & Access Statement



	• SUDS including swales, open water course, reed beds or ponds			
<p>8</p> <p><b>NPPF: Para 14:</b>  <b>“At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking... For decision-taking this means (unless material considerations indicate otherwise)...”</b></p>	“approving development proposals that accord with the development plan without delay;”	✓	It has been demonstrated that the proposal are in broad compliance with the overall objectives of national planning policy.	Planning Statement
	“and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:”	✓	The Local Plan is an outdated policy framework for determining planning applications because of the changed policy context in national housing policy and the increased development requirements. The Emerging Local Plan has recently been submitted for examination. However, a recent appeal decision ruled that the plan in its current form should be afforded limited weight due to a number of objections raised against the document.	Planning Statement
	“ –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;”	✓	There are a number of significant benefits associated with the development. Any conflicts with the Local Plan should be afforded little weight in determining the application.	Planning Statement
	“or specific policies in this Framework indicate development should be restricted (SSSI, Green Belt, AONB etc.)”	✓	The site represents one of the least sensitive locations on the edge of Hook Norton.	Planning Statement



**Appendix 4**  
**Gladman Track Record**



SITE ADDRESS	NUMBER OF DWELLINGS	% AFFORDABLE	OUTLINE/IN PRINCIPLE PLANNING APPLICATION DETERMINATION DATE	COMMITTEE OR APPEAL DECISION (IF RELEVANT)	DATE LAND SOLD	PURCHASER	RESERVED MATTERS/MATTERS SPECIFIED BY CONDITION DETERMINATION DATE	COMMENCEMENT OF DEVELOPMENT	TIMESCALE FROM INITIAL PLANNING PERMISSION TO SITE START
North Dean Avenue, Keighley West Yorks	190	15% (28NO)	12 May 2010	Committee	May 2011	Barratt Homes	Reserved matters approved May 2011 (it was submitted in December 2010)	June 2011	13 months
Golden Nook Farm Cuddington Cheshire	150	30% (45NO)	20 Feb 2012	Committee	July 2012	Bovis Homes	Approved August 2012	September 2012 (road & demolition works)	7 months
Henthorn Road Clitheroe Lancashire	270	30% (81NO)	26 March 2012	Committee	December 2012	Barratt Homes & Taylor Wimpey	Approved March 2013	March 2013	12 months
Wigan Road Clayton le Woods Lancashire	300	30% (90NO)	21 July 2011	Committee	December 2012	David Wilson Homes/ Taylor Wimpey	Approved March 2013	May 2013	22 months
Loachbrook Farm Congleton Cheshire	200	30% (60NO)	20 March 2013 (date of High Court Challenge).	High Court Approval - 20 March 2013	Subject to planning, anticipated Nov 2013	Bovis Homes	14 June 2013	November 2013	8 months
Byefield Road Woodford Halse, Daventry	200	30% (60NO)	15 February 2013	Committee	Conditional exchange of contracts October 2013	Taylor Wimpey	July 2014	Expected Autumn 2014	21 months
Warmingham Lane Middlewich Cheshire	194	30% (58NO)	9 January 2013	Committee	June 2014	Morris Homes	March 2014	June 2014	17 months
Hannay Road Steventon Oxfordshire	50	40% (20NO)	23 April 2013	Committee	July 2013	David Wilson Homes	May 2014	May 2014	13 months
Queens Drive Nantwich Cheshire	270	30% (81NO)	1 March 2013	Committee	September 2014	Barratt Homes & Bovis Homes	July 2014	September 2014 (programmed start)	18 months
Eliburn Livingston West Lothian	87	15% (13NO)	3 March 2014	Committee	Sale agreed when s.75 signed in early 2014	Barratt Homes	Submitted March 2014, approved June 2014.	Sale concluded July 2014, site works underway in August 2014.	5 months



**Appendix 5**  
**Planning Benefits Table**





## Hook Norton – Material Planning Benefits and Negative Factors

### Purpose

The purpose of this supplementary document is to encapsulate the relevant material considerations, and demonstrate as part of the planning balance that the benefits demonstrably outweigh the negative factors of the proposal.

Sustainable development is about positive growth – making economic, environmental and social progress for this and future generations. The document will show that the proposal strongly accords with the three dimensions of sustainable development; economic, social and environmental.

### Economic

<b>Material Consideration</b>	<b>Description</b>	<b>Positive benefit or Negative Factor (inc. document evidence and paragraph ref)</b>
<b>New Jobs</b>	<p>The estimated build cost for the scheme is in the region of £5.7 million to build. This will support around 53 construction jobs (full time equivalent) per annum during the construction period.</p> <p>There are currently around 20 people in Cherwell Local Authority (March 2014) claiming Job Seekers Allowance and seeking work in the construction and building trade. As such, the proposed development could contribute to enabling unemployed construction workers in the area to find employment.</p>	Positive benefit
<b>Labour Force/ demography</b>	<p>The proposed development would accommodate around 130 residents, with a large number likely to be of working age and around 72 likely to be in employment. The scheme will therefore directly contribute to ensuring the availability of local labour force.</p> <p>This would contribute to meeting local needs for affordable housing to support the area's economy by providing housing that working residents in lower skilled and lower paid occupations could afford. This is also a direct benefit to local businesses.</p> <p>The increase in population would also generate additional demand and support for local education and health services such as GPs, dentists, nurseries, schools and colleges.</p>	Positive benefit
<b>Resident Expenditure</b>	<p>Residents of the proposed development would generate annual household expenditure of £1,466,327.</p> <p>Household moves generated by the development would bring some benefits to the local economy through expenditure with local firms on services such as estate agents and conveyancers, as well as on new fixtures and fittings.</p>	Positive benefit

<b>New Homes Bonus</b>	Cherwell District Council would receive an estimated total of £500,000 in New Homes Bonus (NHB), with the last payment of the NHB monies occurring six years after completion and registration for Council Tax purposes of the final property.	Positive benefit
<b>Vitality &amp; Viability</b>	The additional residents of the 54 households will increase demand for and use of local services and businesses (including retail outlets, pubs, cafes etc.) This increased demand and spending will help to maintain and enhance the services available and accessible within the village and increase their viability.	Positive benefit
<b>Household Rates</b>	Upon completion of the development, allocation of the New Homes Bonus is triggered, which funnels money straight to the local authority over a period of 6 years. The Council will also receive Council Tax rates in perpetuity from occupiers of the new development provide an important source of revenue funding for the local authority in delivering services as well as investing in the locality.	Positive benefit
<b>Ageing Population</b>	By providing a range of family housing, especially four bed homes, the proposed development is expected to attract families and some key workers. This will help to respond to the challenges of an ageing population such as reduced local spend and increased pressure on local services and the labour market. The development will also make provision of smaller homes for older residents to meet the requirement of the growing number of residents over 65 to down-size, thereby releasing larger family properties.	Positive benefit
<b>Economic Recovery</b>	Delivery of this site will assist economic recovery more quickly than SUE development.	Positive benefit
<b>Contribution for Primary Education</b>	A significant contribution of approximately £212,298 towards primary education is proposed which could be used towards the planned extension of Hook Norton Primary.	Positive benefit

## Social

<b>Material Consideration</b>	<b>Description</b>	<b>Positive benefit or Negative Factor (inc. document evidence and paragraph ref)</b>
<b>Building Sustainable Communities</b>	<p>Assists in building and maintaining a mixed and balanced community that will help sustain the vitality of community life in Hook Norton.</p> <p>Provides new homes at the sustainable settlement of Hook Norton that is identified as a "Category A Village" in the emerging Local Plan.</p> <p>Development of new homes allows the settlement to play its part in delivering sustainable development in the rural area as proposed in National Planning Practice Guidance (Reference ID: 50-001-20140306)</p>	Positive benefit

<p><b>Housing Need (Market &amp; Affordable)</b></p>	<p>The provision of this type of site for housing is a very efficient way of meeting existing housing need quickly. The site is easy to develop and has very few constraints. This will ensure that the site will rapidly contribute to increasing the supply of housing.</p> <p>Meets an identified Housing Need for people in both the market and affordable housing sectors which will “ensure choice and competition in the market for land” (NPPF para 47)</p> <p>New market and affordable homes here are a major planning benefit due to their contribution to remediating a severe shortage of housing land supply.</p> <p>New homes here will enable people to access the housing market locally rather than being forced to move away due to a lack of available housing. The proposal will assist in helping keep work, family and friendship connections that improve both quality of life and the vitality of the community (NPPF para 55).</p> <p>The mix of house types to attract the economically active and improve economic competitiveness, diversify local age structure and contribute to the “objective of creating mixed and balanced communities” (NPPF paragraph 50).</p>	<p>Positive benefit</p>
<p><b>Design &amp; Access (Social Dimension)</b></p>	<p>The planning permission would enable delivery of a mix of housing - up to 54 new dwellings, offering 2-5 bedroom properties, comprising a range of house types. This will add to the choice of high quality homes available in the district.</p> <p>The proposal sets a framework to enable the delivery of a high quality residential development. Existing and new residents of the settlement will benefit from the additional social infrastructure provision on-site.</p> <p>Strategic areas of landscape and open space will include formal recreation, a children’s play area, and footpaths. The existing vegetation along the site boundaries will be retained wherever possible and enhanced in order to mitigate landscape and visual effects upon the wider landscape to the east and west, which will benefit people and wildlife alike.</p> <p>The scheme will ensure a well-designed pedestrian network that links with the existing settlement. New footpath linkages to existing facilities in Hook Norton will be established.</p>	<p>Positive benefit</p>
<p><b>Public Open Space Provision</b></p>	<p>There will be the provision of public open space (0.5 ha) which will benefit existing as well as new residents. The creation of a new publicly accessible POS and play facilities on where there is currently no public access.</p>	<p>Positive benefit</p>

<b>Transport Impact</b>	<p>The location of the site provides the opportunity for residents to undertake journeys on foot and by cycle, for a variety of purposes, including school, recreation, leisure, local amenity shopping and employment.</p> <p>Off-site infrastructure improvement will provide benefit to existing residents as well as new occupiers of the proposed development.</p> <p>The proposals provide funding to achieve improvements enhancing the highway network for all users in terms of ease of movement and improving safety. Pedestrian friendly linkages for new and existing residents will enhance safety and access.</p> <p>The proposals will support the sustainability of established bus services which serve Hook Norton.</p>	Positive Benefit
	<p>The traffic impact assessment shows that the proposed development would have a negligible impact on the highway network. There is ample capacity available on the road network.</p>	Neutral Factor
<b>Travel Plan</b>	<p>The Travel Plan (TP) promotes sustainable travel awareness and encourages sustainable travel choices other than single occupancy vehicle journeys. This Framework TP is prepared taking account of currently available best practice guidance (DfT 2009) and complementary residential guidance (DfT 2005).</p> <p>The TP will be managed and operated by the Travel Plan Coordinator (TPC,) to be appointed by the residential developer(s), and to be in post 3 months prior to first occupation of a house at the Site.</p> <p>As this is a new development sustainable travel habits can be encouraged from the outset of occupation. The early appointment of the Travel Plan Coordinator will maximise this opportunity to influence travel choices.</p>	Positive benefit
<b>Archaeology and Heritage</b>	<p>No designated heritage assets are present on the application site. The Archaeological assessment, submitted as part of this application states that development on site will not have any significant impact on any heritage or archaeological impact.</p>	Positive benefit
<b>Children's Play Area</b>	<p>Equipped children's play area will be provided, that will be assessable to new and existing residents.</p>	Positive benefit
<b>Contribution towards Public Transport</b>	<p>Approximately £46,548 will go towards the improvement of Banbury to Chipping Norton bus service.</p>	Positive benefit
<b>Bus Stop Improvements</b>	<p>£4,000 towards improved bus stop facilities at The Green.</p>	Positive benefit
<b>Hook Norton Library Contribution</b>	<p>Approximately £2,942 for the Hook Norton Library.</p>	Positive benefit

**Environmental**

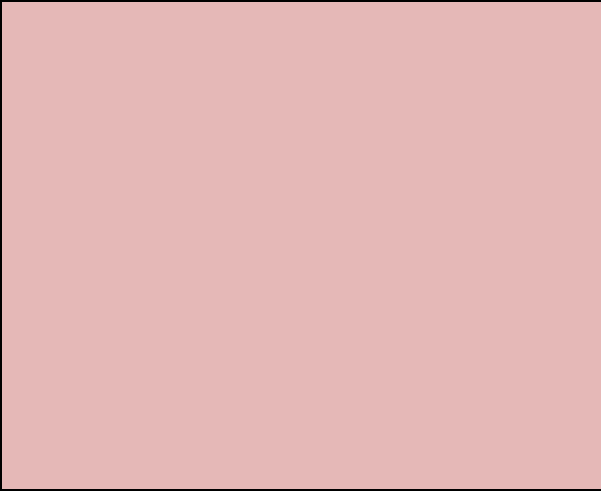
<b>Material Consideration</b>	<b>Description</b>	<b>Positive benefit, Neutral, or Negative Factor (document evidence and paragraph ref)</b>
<b>Landscape &amp; Visual Impact</b>	<p>Although the Area of High Landscape Value designation covers the site and much of the district, the character of the site and its immediate context are more closely related to existing development, which lies directly to the south of the site.</p> <p>Development of the site would not notably influence the character of the landscape beyond the immediate surrounds of the site.</p> <p>The LVIA submitted alongside this application demonstrates that this would be acceptable in the context of this site on the edge of Hook Norton.</p>	Neutral Factor
	<p>The site will be enriched by new tree planting, the creation of new wildlife habitats and protection and enhancement of existing wildlife corridors. New landscaping will soften the landscape impact over time.</p> <p>The proposals respond well to the local landscape character of the site, recognising and responding to opportunities to retain views, extend local public open space and improve the existing urban edge.</p>	Positive Benefit
<b>Odour Impact</b>	<p>The original Odour Impact Assessment concluded that the effect of the odour from Redlands Farm has been assessed as slight adverse and considered in the context of the outline planning application to be acceptable.</p> <p>The proposed mitigation, by the inclusion of a 3m wide vegetative barrier adjacent to the northern boundary of the development proposal, in conjunction with the proposed 3.5m acoustic fence, will further reinforce and enhance the existing vegetative barrier employed by Redlands Dairy, located between the site and the existing Dairy.</p>	Neutral Factor

<b>Ecological Impact</b>	<p>Hedgerows, which form the sites' boundaries are a habitat of principal importance. Hedgerows and vegetation will be retained wherever possible and enhanced through new tree and hedgerow planting where appropriate in order to mitigate landscape and visual effects upon the wider landscape to the east and west;</p> <p>A pond will be created to be compatible with the Sustainable Drainage System.</p> <p>The proposal aims to conserve and enhance biodiversity through:</p> <ul style="list-style-type: none"> <li>• Provision of domestic gardens which provide an opportunity to improve biodiversity over and above agricultural use.</li> <li>• Significant areas of planting to provide green infrastructure, ecology and wildlife benefits, including the protection of badger setts.</li> <li>• Habitat creation measures to ensure biodiversity is retained with enhanced hedgerows and green corridors.</li> </ul> <p>These measures will ensure a net biodiversity gain in accordance with requirements of Paragraphs 9 and 118 of the NPPF.</p>	Positive benefit
<b>Flood Risk Assessment (FRA)</b>	<p>The surface water drainage strategy for the Study Boundary is to direct all the surface water runoff from the residential development to new surface water networks that correspond with the natural ground falls and then into a below ground tank taking into account future climate change in accordance with National Planning Policy Guidance. This is a material environmental benefit.</p>	Positive benefit
<b>Health and Well Being</b>	<p>Residents of the new housing will benefit from the new recreational and open space infrastructure available within the Parish which will integrate with the existing public rights of way network and other public open space and provides greater opportunities for access to existing residents.</p>	Minor positive

### **Planning Balance**

<b>Positive benefits of the Scheme</b>	<b>Negative Impacts of the Scheme</b>
Landscape & Visual Impact Ecological Impact Flood Risk Assessment (FRA) Best and Most Versatile Agricultural Land Health and Well Being	

Building Sustainable Communities  
Housing Need (Market & Affordable)  
Design & Access (Social Dimension)  
Transport Impact  
Travel Plan  
Archaeology and Heritage  
New Jobs  
Labour Force/demography  
Resident Expenditure  
New Homes Bonus  
Vitality & Viability  
Household Rates  
Ageing Population  
Economic Recovery  
S106 Contributions







**Appendix 6**  
**Utilities Appraisal**



## **Utilities Appraisal – Hook Norton**

### **Electricity**

Plans supplied by Western Power Distribution indicate that there are no existing mains within the site boundary. There is an LV cable within the footpath along Sibford Road that may require minor diversion to accommodate the proposed site entrance.

There are existing 11kV HV and LV cables to the north of the site boundary, these will be unaffected by the proposed development.

It is anticipated the proposed scheme would be supplied by either an HV or LV connection from the existing network within the vicinity of the site entrance; a new on site secondary substation may be required to accommodate the new load.

No engineering difficulties or excessive costs are anticipated for these works.

### **Gas**

There are no existing gas mains within the vicinity of the proposed development.

As there are no gas mains within the vicinity of the proposed development it is proposed the developer considers installing individual LPG for each property or a communal LPG system feeding the properties. These options would not attract any abnormal costs and the proposals would be in line with those expected for a development of this size at this time for this solution.

Alternative conventional heating methods can be considered together with renewable energy generation technologies at detailed design stage.

### **Water**

The plans supplied by Thames Water indicate there are no existing mains within the site boundary. There is an existing 4" main running along Sibford Rd, this will be unaffected by the development.

It is anticipated the new development will be able to be fed from this existing main in Sibford Road. A new mains infrastructure would be laid on site to serve the new domestic properties.

### **Telecoms**

BT records indicate there is no existing plant within the site boundary. There is underground plant running along Sibford Road within the vicinity of the proposed site entrance but only minor diversions will be required.

The proposed new site could be fed by extending this existing infrastructure. Broadband connections are available within the area but fibre networks are not yet available.

### **Summary**

Initial investigations have not highlighted any concerns or engineering difficulties with servicing the proposed development with new gas, water, electric or telecommunication connections.

New infrastructure and service connection costs are anticipated to be in line with those expected for a standard development of this scale.

It should be noted that all Utility Providers have a licence obligation to ensure that any connections to the system comply with all relevant regulations, legislation and Engineering Recommendations so therefore do not have an adverse effect to the supply and quantity of supply to existing customers.

## **Appendix 7**

### **Hook Norton Neighbourhood Plan Representations**



**Hook Norton**  
**Neighbourhood Plan 2014-2031**  
**Publication Plan**

**Consultation Response**

**Gladman Developments Limited.**



**October 2014**

# **1 EXECUTIVE SUMMARY**

## **1.1 Context**

1.1.1 These representations are made in response to the Publication version of the Hook Norton Neighbourhood Plan (HNNP) 2014-2031.

1.1.2 Gladman Developments specialise in the promotion of strategic land for residential development with associated community infrastructure. Gladman are currently promoting a number of sites within Cherwell District for residential development, most relevantly to this consultation; land East of Sibford Road, Hook Norton. Gladman have recently submitted a second outline planning application on the site for 54 dwellings.

## **1.2 Neighbourhood Plan Process & Basic Conditions**

1.2.1 In its current form the HNNP would not meet the Basic Conditions as set out in Paragraph 8(2), of Schedule 4B of the Town and Country Planning Act 1990.

1.2.2 In particular, Gladman consider that the GHNP does not meet basic conditions 8(2) (a), (d), (e) and (f) of Schedule 4B of the Town and Country Planning Act 1990.

## **1.3 Comments on policies**

1.3.1 This section of the representations provides comments on the policies contained within the Neighbourhood Plan, highlighting specific areas of the Plan which are not compliant with the basic conditions and require removal and/or significant amendment.

1.3.2 Gladman raise particular concerns with HN-H1; which is restrictive in nature and would have negative implications for growth in Hook Norton, which is one of the largest and most sustainable settlements in the District and has a capacity and need for growth. The Plan cannot include policies which seek to restrict growth especially where the emerging local plan seeks more growth in the area (paragraph 8(2)(e). Equally, the Plan fails to have regard to national policy on the provision of housing and neighbourhood plan-making (paragraph 8(2)(a)) and does not contribute to sustainable development (paragraph 8(2)(d).

1.3.3 Policy HN-H2 does not allocate or provide an assessment of what capacity the implementation of the policy could deliver in Hook Norton. The approach taken by the policy (and in combination with Policy HN-H1) provides no certainty that future growth needs outlined by the emerging plan will be met in Hook Norton and is in conflict with the approach outlined by MM9 of the Main Modification to the emerging Local Plan.



## **1.4 Critique of Evidence Base**

- 1.4.1 The HNNP fails to respond to recent suspension of the examination of the Cherwell District Local Plan, and the revised strategy (and evidence) advanced by the recently published Main Modifications. The most recent evidence base is critical in defining the future strategy of Cherwell District and it is fundamental that the HNNP is in conformity with this. The omission of any consideration towards the emerging strategy by the Parish Council in preparing the plan means that the HNNP cannot be found to be consistent with the Local Plan. The HNNP does not meet Basic Condition (e).

## **1.5 Sustainability Appraisal**

- 1.5.1 The failure by the HNNP to respond to the Main Modifications of the submitted Cherwell District Local Plan means that it that the submitted Sustainability Appraisal does not provide a full assessment of the reasonable alternatives, and assesses the implications of the implementation of proposed policies against the incorrect context provided by the Local Plan. The assessment does not therefore comply with the SEA directive and is therefore contrary to Basic Condition (f).

## **1.6 Conclusions**

- 1.6.1 The HNNP is not sufficiently growth orientated or aspirational. The proposals through the neighbourhood plan would effectively restrict growth in Hook Norton. This directly contradicts the policy “imperative” within paragraph 47 of the Framework to boost significantly the supply of housing (*Gallagher Homes Ltd v Solihull MBC* [2014] EWHC 1283 (Admin), 31(ii) and *Bloor Homes East Midlands Ltd v Secretary of State for Communities and Local Government* [2014] EWHC 754 (Admin), [108])
- 1.6.2 The HNNP provides insufficient clarity on where the emerging growth needs of the Local Plan will be met placing stringent restrictions on the scope of new developments. The HNNP does not support the emerging local plan, contravenes national policy and prevents sustainable development. The HNNP is therefore in conflict with Basic Conditions (a), (d) and (e), and should not be advanced to examination at this time.

## **2 INTRODUCTION**

### **2.1 Context**

- 2.1.1 These representations are made in response to the current consultation of the Public Hook Norton Neighbourhood Plan (HNNP) 2014-2031.
- 2.1.2 Gladman Developments specialise in the promotion of strategic land for residential development with associated community infrastructure. Gladman are currently promoting a number of residential sites within Cherwell District, and have recently submitted an outline planning application on Land at Sibford Road, Hook Norton for 54 dwellings.
- 2.1.3 Gladman developments have actively taken part in the ongoing examination of the Cherwell Local Plan that has been suspended, with hearings scheduled to resume in December 2014.
- 2.1.4 This submission identifies fundamental concerns with the submitted HNNP, which directly contradicts with the whole ethos of the Framework and would fail to meet the required basic conditions.

### **2.2 Structure**

- 2.2.1 The remainder of this representation is structured as follows:
- Chapter 3 – The Neighbourhood Plan Process & Basic Conditions
  - Chapter 4 – Comments on Policies
  - Chapter 5 – Critique of Evidence Base
  - Chapter 6 - Conclusions

### 3 NEIGHBOURHOOD PLAN PROCESS & BASIC CONDITIONS

3.1 National planning policy establishes the Government’s expectations as to the contents and role of Neighbourhood Plans and their relationship with wider development plan documents. §16 and §184 of the National Planning Policy Framework (the Framework) clearly underline that Neighbourhood Plans cannot be in conflict with a Local Plan’s strategic policies or those contained within National Policy. Gladman’s position is that a neighbourhood plan that contains housing policies that seek to constrain housing delivery cannot lawfully be recommended for referendum and be “made” in advance of adoption of up-to-date strategic policies at the local plan level.

3.2 Paragraph 8(2), of Schedule 4B of the Town and Country Planning Act 1990 sets out that *“only a draft Neighbourhood Plan that meets each of a set of basic conditions can be put to a referendum.”* This is also supported by Paragraph 065 of the Neighbourhood Planning chapter of National Planning Practice Guidance (NPPG). The basic conditions are outlined as:

- (a) Having regard to **national policies and advice** contained in guidance issued by the Secretary of State, is it appropriate to make the order;
- (b) Having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order;
- (c) Having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order;
- (d) The making of the order contributes to the **achievement of sustainable development;**
- (e) The making of the order is in **general conformity with the strategic policies** contained in the development plan for the area of the authority (or any part of that area);
- (f) The making of the order does not breach, and is otherwise compatible with, **EU obligations;** and
- (g) Prescribed conditions are met in relation to the order and prescribed matters have been complied with in connection with the proposal for the order.

- 3.3 In section 4 of this representation Gladman test the Vision, Objectives and Policies proposed by the HNNP against the basic conditions listed above in order to determine whether the plan in its current form can be considered compliant with the basic conditions.
- 3.4 To proceed with the plan in its current form would represent a waste of resources for all parties and it is Gladman's view that the publication plan requires substantial amendment and reconsideration prior to examination.
- 3.5 The un-adopted Non-Statutory Cherwell Local Plan 2011 (December 2014) was intended to review and update the Local Plan adopted in 1996, however due to changes in the planning system, work on this plan was discontinued prior to adoption. The un-adopted plan is not part of the statutory development plan.
- 3.6 The emerging Local Plan is currently at examination. Following the conclusion of the initial hearings in June 2014, the inspector suspended the examination due to his findings that the submitted plan requirement did not reflect the most up-to-date objective assessment of needs, that was instead provided by the 2014 Oxfordshire SHMA. The Council are now in the process of revising the submitted strategy in order to deliver the full requirements set out in the 2014 SHMA.
- 3.7 The submitted HNNP is in conflict with the revised development plan that has been radically altered since its submission for examination and the Neighbourhood Plan's submission to the Council.
- 3.8 The document seeks to make policy judgements that are not supported by the Main Modifications to the Local Plan. The HNNP as proposed is inflexible and provides a restrictive approach to growth within the area. This is contrary to the whole ethos of the Framework and the presumption in favour of sustainable development.
- 3.9 The submitted Sustainability Appraisals fail to assess and account for the implications of the Main Modifications to the Cherwell Local Plan. The assessment undertaken is therefore both unsound and contrary to the SEA directive.
- 3.10 Having regard to the points set out above, if progressed and submitted in its current form the HNNP would be in conflict with basic conditions 8(2) (a), (d), (e) and (f).

## **4 COMMENTS ON POLICIES**

### **4.1 Goals & Objectives**

- 4.1.1 The HNNP outlines the plan's goals for the period 2014-2031 forming the basis on which the objectives and policies have been formulated. The goals of the plan are both aspirational and realistic and are supported by Gladman
- 4.1.2 Gladman consider several of the objectives of the plan to be unsound and fail to support the delivery of the Parish Council's goals. The Goal for housing, for example, seeks to provide existing and future residents with the opportunity to live in a decent home, yet objectives 1.4 and 1.6 both explicitly set out to limit development.

### **4.2 Land Use Policies**

#### **Policy HN – CC1: Protection and enhancement of local landscape and character of Hook Norton**

- 4.2.1 The expression of preference towards brownfield development in this policy has not been made in compliance with the Framework. §17 and §111 of the Framework only seeks to encourage brownfield development. The effect of the policy is to restrain Greenfield development, directing future growth towards brownfield sites regardless of sustainability, viability or deliverability. The policy goes beyond that of the Framework and Objective 2.2 of Goal 2 of the Environmental goals. The policy must be revised to state "encourage" to be found in compliance with national policy.

#### **Policy HN – CC2: Design**

- 4.2.2 When proposing policy provisions that place the onus on developers to meet certain criteria and standards outside of that normally arising, the Neighbourhood Planning body must ensure that requirements are fully evidenced and justified. The application of design rules typically applied within the conservation area to the whole parish is not justified. Whilst Gladman appreciate the aims of the Parish Council in preparing this policy the lack of definition provided as to what the Parish Council requires to see and onerous requirements leads to greater uncertainty. Gladman find that the current policy is potentially in conflict with both §173 and §182 of the Framework. The policy should therefore be deleted.

#### **Policy HN – CC3: Local distinctiveness, variety and cohesiveness**

- 4.2.3 Gladman object to this policy as it lacks sufficient justification and is in conflict with national policy. The policy outlines that "*the traditional pattern of growth which characterises Hook Norton is small scale and gradual change. This must be reflected in the extent and amount of any development in Hook Norton.*" This statement does not reflect the truth and is therefore misleading. The growth of the village was in fact more or less static until the 1970's, with more rapid expansion experienced since. In any event, the Framework which now provides the national policy context,

seeks to significantly boost to housing land supply. Therefore any policies that seek to constrain growth on the basis of past trends is in conflict with national policy. Furthermore there is both recognition and support by Government of the need to maintain and enhance rural services and vitality in supporting thriving communities. The provision of rural housing is seen as central in delivering these objectives. A policy actively restraining rural housing growth is therefore contradictory in achieving these aims.

- 4.2.4 Gladman believe that the provision of the policy to require developments to be built predominantly out of local ironstone, and provide quality in design for car parking, boundary treatment bin storage, meter boxes and lighting lacks sufficient justification. Gladman submit that Policy HN-CC3 simply reads the following;

*“Proposals promoting variety in density, layout, building orientation and sizes in reflection the local context will be considered favourably. Building styles and materials should be considerate of existing local character. “*

**Policy HN – CC4: Resource efficient**

- 4.2.5 No definition is provided by this policy as to what “high levels of resources efficiency” means. Gladman consider that the application of national standards and requirements is applicable to meet the Parish Council’s goals and objectives connect to the implementation of this policy. There is no need therefore for this policy to be included within the HNNP.

**Policy HN – COM1: protection of Locally Valued Resources**

- 4.2.6 Gladman support the provision of this policy as it prevents existing identified facilities and services in the village from being developed in a way that would result in their loss. Gladman believe that the Parish Council should consider what role new development has in securing the future viability of these identified “crown jewels”. Both the Framework and Planning Practice Guidance (PPG) published by the Government in April 2014 set clear guidance towards the support services in the rural area<sup>1</sup>, with PPG establishing the role of new housing in securing rural sustainability. To meet Basic Condition (a), the HNNP must therefore be produced along these lines.

**Policy HN – COM2: Public Rights of Way (PROW)**

- 4.2.7 The Parish Council should not use this policy as a method to block the delivery of sustainable developments proposed for sites with existing PROW crossing the site. The Framework does not consider the loss or diversion of PROW or change to amenity along PROW’s as a reason to refuse planning applications. A planning application must be weighed on its merits and should the merits of an application outweigh the loss to public amenity along an existing PROW then the application should be approved with appropriate mitigation sought.

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<sup>1</sup> See §28 of the Framework and PPG ID Ref ID: 50-001-20140306

**Policy HN – COM3: Developer Contributions to Community Infrastructure**

- 4.2.8 Gladman consider this policy to be a missed opportunity for the Parish Council. Instead of setting out that the local planning authority must consult the Parish, the HNNP should instead identify what funds secured will be used for. The Parish Council should identify a list of priorities to secure the goals and objectives of the plan and ensure the future vitality and vibrancy of the village of Hook Norton.

**Leisure facilities (Not outlined as a policy)**

- 4.2.9 Whilst there are objectives in the plan to maintain and enhance facilities for children and young peoples' activities, and a range of sporting and non-sporting leisure activities beyond the retention of facilities outlined in Policy HN - COM1 the plan does not set out how such enhancements will be secured. The Council should consider the role of new development in providing community benefits and plan for growth in the village.

**Policy HN – COM4: Broadband**

- 4.2.10 This policy is provided in an attempt to secure the delivery of high speed broadband in the village should the promises of the County Council not be fulfilled. The provision of the policy on this basis is acceptable, however Gladman do not consider it to be deliverable. The scale of growth proposed by the HNNP (Policy HN - H1) will not in Gladman's view secure broadband provision for the village. Should the Parish Council wish to secure the full delivery of faster broadband services to the village it should consider revising its development strategy to propose greater levels of growth.

**Policy HN – COM5: Retention of Local Employment**

- 4.2.11 The policy outlined is the aim of securing existing employment sources in the village. It is a policy that mirrors the existing approach towards proposals on employment land taken by decision makers and by national policy, the policy in this sense is not required.

**Support for employment by the HNNP**

- 4.2.12 Gladman do not consider the policies outlined by the plan adequately support the future economic growth prospects of the village to sufficiently delivery the goals and objectives of the plan.
- 4.2.13 Objectives 1.1 and 1.3 outline respectively that the plan will "*encourage and support local agriculture and businesses in suitable locations*" and "*encourage new business start-ups and opportunities for local people.*" Yet despite this no policy or allocations are provided to encourage new employment/business development in the village. The Parish Council should think about how the plan can be used to support local business beyond broadband provision. Whilst the installation of fast broadband to the village will provide better access to the wider world, it far from guarantees the delivery of economic growth. The plan should support the provision of new

business facilities, start-up units and live work units to create greater certainty that the economic objectives of the plan.

**Policy HN – H1: Sustainable housing growth**

- 4.2.14 Policy HN-H1 sets out the plans approach to new residential development proposals. The policy defines sustainable housing growth as “conversions, infilling and minor development”, with minor development outlined as being typically less than 10 dwellings. The policy outlines that if justified by objectively assessed “local” housing need and where proposals do not result in more than 20 dwellings being built in any location at any time, proposals for up to 20 dwellings will be allowed.
- 4.2.15 The approach taken in the Parish Council’s view does not place a cap upon development but rather reflects significant recent permissions and community opinion. The Council justify the policy with reference to the submitted plan strategy that sought to allocate 252 dwellings towards Policy 2 Villages. As of 30<sup>th</sup> June 2014, 528 dwellings have permission in these villages as a result of Cherwell District Council’s failure to demonstrate a five year land supply. The proportion of growth supported by the plan is also a reflection of the CRAITLUS report that gives Hook Norton as poor sustainability rating.
- 4.2.16 Gladman do not consider the approach taken by the policy to be sound. Constraining the provision of housing land is contrary to the very ethos of the Framework. Greg Clark, in the Ministerial foreword to the Framework stated *“sustainable development is about positive growth – making economic, environmental and social progress for this and future generations... Development that is sustainable should go ahead, without delay – a presumption in favour of sustainable development that is the basis for every plan, and every decision.”* The Framework lists a number of Core Planning Principles, one of which states *“Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth.”*<sup>2</sup>
- 4.2.17 Furthermore Gladman find that the basis against which this policy is justified is now out-of-date and inconsistent with the strategy of the emerging local plan. Following the initial findings of the inspector examining the Cherwell Local Plan, the Council have recently consulted on Main Modifications to the submitted plan to accommodate the inspectors findings that the plan must meet the full objectively assessed housing need (1140 dwellings per year) as identified in the 2014 Oxfordshire SHMA produced by GL Hearn; a figure that is approximately 41% higher than that originally submitted by the District Council (670 dpa).
- 4.2.18 Gladman in particular draw the Parish Council’s attention to page 155 of the Main Modifications which sets out the revised Housing Trajectory for the emerging local plan. The table confirms MM9 which allocates 750 dwellings of new growth towards the tier within which Hook Norton is

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<sup>2</sup> Paragraph 17, bullet point 3, NPPF



identified. The 750 dwellings proposed by MM9 are confirmed as being required **in addition** to the 247 completions seen in this tier between 2011 and 2014 and 888 dwellings permitted as of 31<sup>st</sup> March 2014. Cross referencing Appendix C of the submitted HNNP with the 2014 SHLAA it is evident that on sites over 10 dwellings only 135 dwellings have been permitted since the 31<sup>st</sup> March 2014 in Hook Norton's settlement tier, with none of these being delivered in Hook Norton Parish itself. Therefore in terms of the growth with locations yet to be identified by the emerging plan, Hook Norton has yet to deliver any.

- 4.2.19 Whilst Hook Norton is less sustainable than the main towns of Banbury and Bicester, the village is one of the most sustainable and suitable villages in the District to accommodate future housing needs. The recognition of the village's sustainable merits is recognised by Cherwell District Council by its identification as a Policy 2 Village with some growth directed towards it during the plan period. The Parish Council need to recognise the value of development in securing the future vitality and vibrancy of the settlement, supporting existing "crown jewel" services recognised as of critical importance by Policy HN-COM1 in common with §28 of the Framework and the Rural Housing Chapter of PPG. New development can also secure the delivery of key benefits such as contributions towards improved sustainable transport links, open space improvements and support for local business start-ups.
- 4.2.20 Policy HN-H1 should be revised in order to ensure that the emerging local plan requirement can be delivered in full. The policy does not meet Basic Condition (e).

**Policy HN-H2: Location of Housing**

- 4.2.21 The plan does not allocate sites for housing, instead referring to criteria established by the policy against which the suitability of sites will be assessed.
- 4.2.22 Gladman do not consider the approach applied by this policy to be compliant with that set out by the emerging local plan. Main Modification 9 (MM9) states that the additional 750 dwellings will be identified through the preparation of neighbourhood plans and through the determination of applications for planning permission. Despite this clear guidance, the neighbourhood plan fails to allocate sites, instead making passing references to ones preferred or not favoured.
- 4.2.23 Gladman question the capacity of the approach taken by the Parish Council to meet identified needs in the emerging plan. On page 18 of the HNNP outlines that 11 SHLAA sites were assessed by the community and then ranked according to their suitability in their view for housing. How the criteria outlined in Policy HN-H2 affects the future capacity of the village in combination with Policy HN-H1 is unknown as the evidence supporting land supply on the Council's website is notably absent. In addition it is now the case that the 2013 SHLAA is now out-of-date and has since been superseded by the 2014 edition. The basis of this policy is therefore out-of-date. To ensure the delivery of full housing needs in the village, the HNNP should look to allocate sites using the 2014 SHLAA as a starting point.

**Policy HN – H3: Housing Density**

4.2.24 No comments.

**Policy HN – H4: Types of Housing**

4.2.25 The policy establishes the need for developments of 3 or more homes to provide a mix of housing types and tenures reflecting identified needs. The policy places the onus on the applicant to establish what need there is. This is not a sound approach and creates uncertainty. It is the policy maker that should establish and justify requirements not the applicant. The policy must be revised to outline that needs should align with the need outlined in the Local Housing Needs Survey and wider evidence base.

**Policy HN – T1: Access and Parking**

4.2.26 Gladman object to the requirement set out in this policy. The requirement to take into account future needs goes beyond the tests of planning obligations as set out by §204. This section of the Framework sets out that planning obligations should only be sought where;

- They are necessary to make the development acceptable in planning terms.
- Directly related to development.
- Fairly and reasonably related to the scale and kind to the development.

4.2.27 Gladman believe that the Policy should simply read;

*“Any new development must provide access to the local road network which is suitable and sympathetic to the surroundings and must provide sufficient off road parking (where possible) in line with Oxfordshire County Council’s Parking Standards.”*

**Policy HN – T2: Non-car transport**

4.2.28 Gladman support the rationale of the Council for the inclusion of this policy; the provision and maintenance of public transport and footpath/cycleway network is critical in promoting sustainable travel. Gladman doubt how realistic the policy is as currently written. Not all developments are of sufficient scale to justify and support improvements local sustainable transport methods. Gladman again here refer back to §206 from the Framework as quoted above and §173 of the Framework on viability. Provision towards these facilities cannot and should not come from all development.

4.2.29 The Council should also consider just what improvements it wants beyond improvements to the bus service in Hook Norton and determine what costs are required to deliver these. Depending on how critical the delivery of the schemes is to the local population, the plan should then allocate sites accordingly. Only through this way will the plan be successful in delivering its transport objectives.

## **CRITIQUE OF EVIDENCE BASE**

4.2.30 The evidence base of the HNNP is set out as follows:

- 2013 Annual Monitoring Report (2013)
- Approved Allocation Scheme (2012)
- Cherwell Local Plan (1996)
- Cherwell Local Plan Saved Policies (1996)
- Countryside Design Summary SPD (1998)
- Hook Norton Conservation Area Appraisal (2007)
- Cherwell Local Plan 2006-2031 Proposed Submission (2012)
- Cherwell Local Plan 2006-2031 Proposed Submission Focused Consultation (2013)
- Strategic Housing Market Assessment Review and Update (2012)
- Strategic Housing Land Availability Assessment (2013)
- Cherwell Local Plan 2006-2031 Submission (Jan 2014)
- CRAITLUS Report (2009)
- Cherwell DC Landscape Assessment (2005)
- Hook Norton Neighbourhood Plan Survey Report (2013)
- Rural Community Profile for Hook Norton (2013)
- Oxfordshire Wildlife and Landscape Study (2004)
- Rights of Way Improvement Plan
- Better Broadband for Oxfordshire
- Advisory Lorry Route Map
- 2011 Census

4.2.31 Gladman note that the list cited above most notably excludes the District Council's proposed Main Modifications to the submitted Cherwell Local Plan (October 2014), the 2014 Oxfordshire SHMA and the 2014 Cherwell District SHLAA. These documents are the most up-to-date, and provides for the revised strategy that is to be examined in December. These documents are the most critical in defining the spatial approach to be applied by the District Council. The omission of any consideration towards the most up-to-date evidence by the Parish Council during the preparation stages means that the HNNP cannot be found to be consistent with the emerging local plan. The HNNP does not therefore meet Basic Condition (e).

## **5 STRATEGIC ENVIRONMENTAL ASSESSEMENT**

- 5.1.1 GDL consider the submitted Sustainability Appraisal (SA) to be unsound in terms of the scope and assessment made.
- 5.1.2 The submission of the HNNP ahead of the conclusion of the examination of the Cherwell District Local Plan means that that the neighbourhood plan has not been made in compliance with the strategy outlined by the recent Main Modifications. These Modification's, significantly alter the strategic context against which the HNNP is made. There is now a need to accommodate at least 750 dwellings within the settlement tier within which Hook Norton is identified. The submitted Sustainability Appraisal fails to take this into account both as providing a reasonable alternative to the assessed option identified in the submitted HNNP and against which to assess the goals, objectives and policies of the plan. As a result the assessment made by the SA is both inaccurate, and out-of-date in context of identified needs. The SA has therefore not been made in full compliance with the requirements of the SEA directive and UK regulations.
- 5.1.3 Policy HN-H1 is now in conflict with the development and this should be reflected in the scoring of the SA. Policy HN-H2 fails to support the delivery of 750 dwellings, and this needs to be reflected in the SA.
- 5.1.4 In context of the findings above it is clear that the submitted Sustainability Appraisal does not meet basic condition (f) and must be revised to constitute a sound assessment.

## 6 CONCLUSIONS

6.1.1 In conclusion Gladman are concerned that the HNNP is not sufficiently growth oriented and would effectively act to restrict growth. The HNNP is contrary to the whole ethos of the Framework and fails to meet a number of the basic conditions required for neighbourhood plans. Specifically, Policy HN-H1 is fundamentally flawed and would result in significant constraints to development, failing to deliver the proportion of growth required to be delivered by the Local Plan.

6.1.2 In conclusion the HNNP is fundamentally unsound and does not meet the basic conditions. The HNNP is a plan which has been developed against and reflects an out-of-date evidence base and is inconsistent with the emerging development plan. As outlined through this representation, the HNNP contains a number of flaws which contravene the following basis conditions:

**(a) Having regard to national policies and advice contained in guidance issued by the Secretary of State, it is appropriate to make the order,**

- Policy HN- H1 seeks to constrain development, applying a cap to development in the village based on an irrational assessment of sustainable and against an out-of-date growth target. The HNNP includes policies that provide no certainty to developers, transferring the onus of justifying policy decision on to applicants and sets obligations that are unrealistic This is in conflict with national policy as established by the National Planning Policy Framework and Planning Practice Guidance.

**(d) The making of the order contributes to the achievement of sustainable development,**

- The approach taken by Policy HN – H1, imposing a cap new development is overly restrictive and is not supported by a sufficient evidence base/justification. Policy HN- H1 as proposed could restrict otherwise sustainable development from being delivered.

**(e) The making of the order is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area),**

- There is currently no sound or up-to-date local development plan against which the HNNP could be prepared. Production of the emerging Cherwell Local Plan is at a very advanced stage in the plan making process, and therefore its strategy and evidence should be considered a significant material consideration.

**(f) The making of the order does not breach, and is otherwise compatible with, EU obligations,**

- The Sustainability Appraisal submitted alongside the publication HNNP does not comply with the Strategic Environmental Assessment Directive and the

implementing UK Regulations. The SA does not identify, describe or evaluate the likely significant effects on the environment of implementing the plan and assess reasonable alternatives – such as the revised Local Plan requirement..

- 6.1.3 If the HNNP was to proceed to examination, Gladman believe the plan should be found to have failed to comply with the basic conditions and would not be recommended to proceed. In relation to the significant objections raised Gladman would wish to participate in the relevant hearing sessions.

**Appendix 8**

**Officers Report ref. 14/00844/OUT**





**Site Address: OS Parcel 6680 North of  
Hook Norton Primary School and South  
of Redland Farm, Sibford Road, Hook  
Norton**

**14/00844/OUT**

**Ward:** Hook Norton

**District Councillor:** Councillor Ray Jelf

**Case Officer:** Linda Griffiths

**Recommendation:** Refusal

**Applicant:** Gladman Developments Ltd

**Application Description:** Outline – Erection of 54 dwellings, Landscape, Public Open Space and Associated Works

**Committee Referral:** Major and Departure from Policy

**1. Site Description and Proposed Development**

- 1.1 The application site is situated at the northern end of the village of Hook Norton and relates to approximately 2.70 ha of agricultural land located to the east of the Sibford Road between the Hook Norton Primary School and Redland Farm, an intensive dairy farm. The land is relatively flat agricultural land and is currently in arable use and has an existing field gate access onto the Sibford Road just north of the primary school entrance. The site is bounded by hedgerows and trees to all boundaries of the site. A denser tree belt currently exists along the northern boundary of the site within the Redlands Farm control. To the east and west of the site lies open agricultural land. To the south west are residential properties set back behind a wide verge, fronting Sibford Road.
- 1.2 The proposal seeks consent for up to 54 dwellings, 35% of which will be affordable to include an area of open space in the south eastern corner of the site and a single vehicular access onto the Sibford Road. An attenuation pond is indicated along the northern boundary at the low point of the site. It is proposed to retain existing trees and hedgerows where possible.

**2. Application Publicity**

- 2.1 The application has been advertised by way of neighbour letter, site notice and an advert in the local press.

95 letters of objection have been received to date. The following issues are raised

- Further destruction of the environment in and around Hook Norton
- Local services and infrastructure cannot cope with current demand, the school is full and local residents already have difficulty getting children into school
- The sewage system is insufficient to cope with the development
- In periods of heavy rain water runs down Sibford road and not into the drains
- School is in danger of losing its village ethos
- Bus service is erratic and it is ludicrous to promote cycling as an alternative when we are miles away from alternative transport on narrow, unlit roads
- Congestion at peak times being located adjacent to the school
- Need our local plan framework in place to protect us from this
- Road infrastructure simply cannot take any more new homes and roads are very narrow and increased traffic outside the school at peak times does not appear to have been taken into consideration in the TA
- Within the space of less than 2 years, hook Norton is subjected to another

### **significant housing development**

- **The only viable heating fuel is oil, a rapidly dwindling resource and a high carbon footprint, is this to be off-set by tree planting**
- **Greenfield site**
- **Hook Norton has had its fair share of new development**
- **Contrary to the NPPF**
- **The bus service does not serve the working population because of the late and infrequent times and no link to local trains**
- **In a village which prides itself for its low carbon credentials, in all the plans put forward so far not a single alternative energy solution has been put forward, nor insisted on by the council in compliance with the NPPF**
- **Too many houses crammed into a small space, spoiling the look of the village**
- **It will compromise the farm which has been there for generations, the slurry pit is very close to the site**
- **No local employment means people have to commute long distances for work**
- **It will not cater for local residents**
- **Foul farm smell, unable to open windows, sit in your garden or hang out washing, this is obnoxious for us but to live on top of it would be unbearable.**
- **Such development, when taken together with the planning permissions already granted, would fundamentally undermine the intrinsic character of the village and would do nothing to support what is currently a thriving community.**
- **CDC has been lagging in its duty to protect us by not producing a five year plan**
- **Noise from the milking machines, a constant beeping sound from roughly five in the morning**
- **Bellowing of cows when separated from their young, I have logged for the purposes of this letter the various days when this has been an issue over the last 6 weeks, to date there have been 36 occasions**
- **Several houses in Sibford Road have commercial fly killing machines to deal with flies from the slurry pit. Complaints of this nature would no doubt impact on the viability of the farm and would be contrary to the NPPF and the support of the rural economy and the scarce number of jobs available locally**
- **Size of development runs contrary to the Neighbourhood Plan**
- **Whilst some homes will be affordable, the vast majority of units would fail to meet the needs or budget of local residents, namely the young and elderly to enable them to remain in the village**
- **The development will pose a threat to the future of Redlands Farm. It is not possible to operate this unit without causing significant nuisance to any inhabitants, creating noise from machinery from 5am onwards for most of the day and on occasion into the night, 365 days a year. Odour from the slurry pit which is located adjacent to the site and flies are also a nuisance.**
- **Mr Pickles said he wanted to keep our green and pleasant land by building on brownfield sites, this is not one of them**
- **Existing developments should be built and allowed to settle before considering more**
- **Housing is unlikely to be affordable which is what is needed**
- **Houses should be in Hornton Stone to be sympathetic to its surroundings**
- **Our traditional villages need to be preserved to retain the character of our countryside**
- **Aware that housing is needed but can it not be in small developments in a range of villages to give people choice and remain in keeping with the way that these villages have developed over the years rather than large developments focussed on one village**
- **Hook Norton was a moderate, reasonably isolated and charming village – the volume of development that has taken place since the mid 1970s continues to destroy the ambiance and atmosphere of village life, once developed the area is lost forever**

- The proposal extends beyond the village boundary
- There are speeding issues in Sibford road and the sight lines for the development may not be sufficient to allow for this fact
- Contrary to governments recent statement (June 2014) that brown field sites will be prioritised over green field
- Area of High landscape Value
- Problems with existing broadband system will be exacerbated
- The air quality report is inaccurate and a more detailed assessment should be undertaken. To state there have been no complaints about odour is not an accurate method of assessment and does not reflect the actual situation.
- The CRAITLUS study noted that Hook Norton was amongst the most remote settlements in terms of access to the county towns.

### 3. Consultations

- 3.1 **Hook Norton Parish Council:** the Parish Council has a number of community projects in the village that need urgent funding. Therefore should this proposed development go ahead, the Parish Council should be consulted before any Section 106 obligations are agreed.

Hook Norton Parish Council strongly objects to the development of these houses in this location on the grounds of un-sustainability and considers it should be refused. Following the successful applications for development at Bourne Lane and Stanton Engineering, the village of Hook Norton will increase in size well above the level anticipated by local planning policy. The physical and social infrastructure however has not matched this increase. Further development is unsustainable, particularly when considered cumulatively with the already consented and yet-to-be-implemented development.

Local opinion regarding the extent, location and size of future residential development has been expressed during consultations associated with the preparation of a Neighbourhood Plan. The application is contrary to the findings on which the Neighbourhood Plan policies are based.

Further expansion of the village would have an adverse impact on the village:-

- The school is at capacity and would require major extension across all year groups and expansion of the overall land area of the school site, which would change the character of the school and would require time and investment to complete. Development of 54 houses would take up land which would most logically be the place for the school to extend into.
- The current electricity infrastructure is recognised as marginal for existing needs and will need expansion. The water supply struggles to meet current demand and the sewage treatment facilities are thought to be inadequate. The recent feedback to the Bourne Lane detailed matters application confirms this is the case.
- There are insurmountable problems with transport infrastructure due to the isolated position of the village and the nature of the roads serving the village. Increased traffic would also directly impact the surrounding villages which must be passed in order to reach Hook Norton. Development in Hook Norton has been recognised in CDC reports (CRAITLUS) as adding the greatest load to the transport infrastructure of any village in the district. Public transport does not serve the working population well and cycle commuting is impractical. You cannot get into Banbury to start work at 8am as the first bus is 7.23am.
- The sustainability document states that people commute by train, but they would need to travel by car to the station as public transport is not possible.
- Sibford Road is already busy during school drop off and pick up times and the

**access is too close to the school entrance, the Bourne Lane junction and the Bourne Lane exit point.**

- **The Transport Assessment fails to take adequate account of the cumulative effect of this proposal.**
- **Very concerned about the impact on Redlands Farm which provides local employment and is a major contributor to the local economy. This development would potentially cause a loss of business and employment to the farm with devastating consequences to this local business. The proposal to erect a 3m high bund to provide mitigation is in itself a landscape and visual impact and does not seem to the pc to adequately deal with the various adverse impacts which are an inevitable consequence of a working dairy farm.**
- **The Neighbourhood Plan has been prepared and subject to a 6 week period of consultation. The submission version is due to be submitted shortly. The proposal is not in accordance with the Neighbourhood Plan policies. In addition, research from the Neighbourhood Plan indicated that people would prefer small developments (10-20 dwellings) and this site was specifically identified as one not considered suitable.**
- **Scale of development is wholly inappropriate, a proposal of 54 homes cannot be considered to constitute 'minor development'. In the submission local Plan, Hook Norton is identified with five other villages to receive a total of 252 homes between them. Hook Norton has contributed to 98 new permissions together with a further 9 previously consented, representing a total of 107 dwellings which is 42% of the total allocation to the group of 6 villages. The submission Local Plan seeks to avoid overdevelopment in any village and aims to support the long term sustainability of rural areas through a measured approach to development.**
- **The village has no gas supply, the only options are oil and electricity. The village has a project in place which seeks to reduce carbon emissions, there is nothing in the application documents which shows this has been considered.**
- **Mobile phone service is poor, there is no cable TV and very poor DAB reception**
- **The proposal is contrary to H13 and TR7 of the adopted Local Plan, the non-statutory Cherwell local plan and this level of development is contradictory to the special strategy and policies of the submission Local Plan.**
- **The Localism Act 2011 seeks to enable local decision making at neighbourhood level, therefore CDC should put strong emphasis on the views expressed by members of the Hook Norton community, which are strongly against this development.**

The comments of the Parish Council can be seen in full on the application details on the Council's website.

Following the receipt of the above comments, a further letter has been received from the Parish Council which is summarised as follows:

- **PC notes the Ministerial announcement of Nick Boles of 14<sup>th</sup> July 2014 in which it is clear that the Secretary of State wishes planning decisions to reflect governments clear policy intention when introducing neighbourhood planning**
- **The Hook Norton Neighbourhood Plan (HNNP) has just been approved by the PC and is now progressing via CDC toward Examination and Referendum and we therefore consider it is a highly material consideration to this application in accordance with recent Ministerial advice.**
- **The proposal conflicts with Policies in the HNNP in terms of site location and type of development**
- **The proposal is contrary to landscape character and design policies in that the proposal to construct a 3.5m high bund near to the boundary with Redlands Farm. Such a feature is untypical within the local landscape and does not represent good design.**
- **The DAS states there will be two access points at 2 locations, as detailed in**

the TA, however only one appears in the TA

- The submitted TA assesses existing traffic conditions but does not allow in traffic counts and projections for the effect of the 107 dwellings which have recently been approved. Reference is made to 'committed development' in Bourne Lane but there is no analysis or adequate reasoning for the assumptions made in dismissing the effect of this. Further there is no reference to another recently approved development in Hook Norton which will result in an additional 37 dwellings. Therefore disagree that the TA is robust.
- A travel plan cannot overcome the poor sustainable rating for Hook Norton.
- The HNNP is at an advanced stage and provides clear policy guidance. Hook Norton is a village which is due to undergo significant expansion and the Plan has been prepared in order to manage future growth. Such an approach accords with the Government's localism agenda and the NPPF core planning principle requiring planning to be plan-led and empowering local people.

These comments can be seen in full on the application details on the Council's website.

### **Cherwell District Council Consultees**

- 3.2 **Planning Policy Officer:** The site is not allocated for development by either the saved policies of the adopted Cherwell Local Plan 1996 or those of the non-statutory Cherwell local Plan 2011, nor is the site proposed for development as a strategic housing allocation in the Submission Local Plan January 2014.

The paragraphs of the NPPF most relevant to this application are:

Paragraph 49 states that 'housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites'

Paragraph 47 requires local planning authorities to 'identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land'

Paragraph 14 on the presumption in favour of sustainable development. This indicates that where a development plan is absent, silent or the relevant policies are out of date, 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 the Framework taken as a whole; or
- Specific policies in this Framework indicate development should be restricted

Paragraphs 47-50 and 55 on delivering a wide choice of high quality homes

Paragraphs 56, 57, 59-64 on requiring good design

Paragraph 109 on conserving and enhancing the natural environment

The NPPG states that it is important to recognise particular issues facing rural areas in terms of housing supply and affordability, and the role of housing in supporting the broader sustainability of villages and smaller settlements. It states that assessing housing need and allocating sites should be considered at a strategic level and through Local Plan and/or neighbourhood plan process. However, all settlements can

**play a role in delivering sustainable development in rural areas.**

**Five Year Housing Land Supply – the latest published position on the districts housing land supply is the Housing Land Supply Update June 2014 which was published following a change in circumstances and reflects the Oxfordshire SHMA 2014 midpoint figure of 1140 dwellings per annum, currently considered to be the objectively assessed housing need figure for the district. It indicates that the five year supply of deliverable sites for 2014-2019 is now 3.4 years (compared to 4.9 years in the 2013 AMR). This includes a requirement for an additional 20% buffer and taking into account of the shortfall (2314 homes) within the next five years. The projection for 2015-2020 is 3.4 years supply.\***

**Strategic Housing Land Availability Assessment Oct 2013 – the SHLAA is a technical document and is a key element of the evidence base for the emerging Cherwell Local Plan. It will help the Council to identify specific sites that may be suitable for allocation for housing development. The SHLAA is to inform plan making and does not in itself determine whether a site should be allocated for housing development.**

**The SHLAA 2013 recorded the application site (ref. HO027) but included the site in the list of rejected sites, as the availability of the site was not confirmed and was therefore not considered to be available at that time. It recommended that the Council kept the site under review.**

**Neighbourhood Plan – at its meeting on 3 June 2013, the Council's Executive decided to designate Hook Norton parish boundary as a Neighbourhood Area for the purposes of preparing a Neighbourhood Development Plan by Hook Norton Parish Council under Section 61G(1) of the Town and Country Planning Act as amended. A draft Plan has been published and consulted upon by the Parish Council. The site lies outside the built up limits of the village, would extend development into the countryside and as such is contrary to saved policies in the adopted Local Plan. Development would have an impact on the appearance of the countryside and on the landscape setting on the approach to the village from the north.**

**However, the Council does not currently have a five year housing land supply and NPPF paragraph 49 indicates that planning policies for the supply of housing cannot be considered up to date if this is the case. As such the provisions of paragraph 14 of the NPPF become relevant to the proposal and an assessment will need to be made as to whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, namely the provision of new homes including affordable homes and associated developer contributions to infrastructure in the locality.**

**Hook Norton is identified as a suitable location for limited new development in existing local plans and the Proposed Submission Local Plan. The village has received a modest level of growth in recent years, however, the Stanton Engineering site in Station Road has planning permission for 37 dwellings and the recent planning appeal decision referred to above is likely to lead to an additional 70 dwellings on Bourne Lane opposite the application site.**

**Policy Recommendation – the planning policies contained in the existing local plans, the proposed Submission Local Plan and the NPPF, together with the Council's five year housing land supply situation and the recent appeal decision on land opposite the application site have to be taken into account.**

**Whilst the proposals are contrary to saved housing policies in the Adopted Cherwell Local Plan, as the Council does not currently have a five year housing land supply and housing policies cannot be considered to be up to date.**

The proposal would extend development into the countryside, contrary to saved policies C8 and C9, and NSCLP policies EN30 and EN31. However, the impact that the development would have on the landscape and protecting the countryside has to be assessed against the benefits the development would have in terms of increased housing supply.

In this particular case, on balance, a planning policy objection is not raised to the proposed development subject to all detailed matters having been satisfactorily resolved, having regard to the policies on housing, design and construction included in the Proposed Submission Local Plan and to issues of deliverability.

- 3.3 **Design and Conservation Officer:** further consideration should be given to the character study of Hook Norton, particularly the setting of Sibford Road, and the historic core to ensure proposed development responds to its setting, and establishes a distinctive local character relating to Hook Norton.

#### Site and Character Context

- The Design and Access Statement contains an appropriate level of design analysis, which generally supports the overall design approach for the site
- It would be helpful to have more information on the analysis of the local morphology and vernacular relating to what elements are being suggested for the site
- It would be helpful to have more information on the setting of Sibford Road to understand how the analysis of this area has been translated into the proposals. This is an important area of the site as it clearly relates to the existing fabric of Hook Norton and comprises an important frontage along one of the main entrances to the village.
- The evaluation and design principles section seems to set out a robust set of design principles, informed by the analysis, which have the potential to deliver a well-designed scheme.
- Clarification of the 'morphology of the existing settlement' would be helpful, as the council would expect cues to be taken from the historic core, rather than 20<sup>th</sup> century examples within the village.
- Traditional vernacular are predominantly wide fronted units with steeply pitched roofs

#### Development Approach

- The design principles help translate the findings of the site analysis and are generally robust. The indicative masterplan is well thought through and represents a good hierarchy of streets reinforced by appropriate built form. However, further information on how heights and massing varies across the site would be helpful and the framework shows a square along the primary street but this is not apparent on the indicative masterplan.

#### Layout Plan

- The layout principles are generally good and well applied to the site and although only indicative, there could be improvements to ensuring continuity of frontage, car parking provision, position of the open space and creating focal buildings and a sense of place.

#### Movement Network

- The masterplan proposes a clear hierarchy of streets and it is important that this is reflected in the built form.
- Generally the scheme provides good permeability but a pedestrian link in the north west of the site to Sibford Road should be considered to allow connection and movement to the area of open space and public rights of way on the opposite side of the road.
- Information explaining the car parking strategy would be useful

### Landscape and Public Realm

- There appears to be a good mix of units across the scheme. The use of linked units and semi-detached properties along the primary route demonstrates a robust approach to establishing a distinct character and providing contrast to the more informal, larger detached units on the lower order lanes.
- It would be helpful to have further information on the principles being applied to the materials and detailing design of the development. The council expects a proportion of natural stone and slate in focal locations and along the Sibford Road frontage.
- 2.5 storey should be restricted to the primary route, 3 storey will likely be considered inappropriate without significant justification

Following the submission of an addendum to the design and Access Statement, revised comments have been received which requires that further consideration should be given to the character study of Hook Norton in establishing appropriate character cues. This forms an important design principle that will be used to inform design of the site, and as such requires further work. There are a number of additional issues that need to be resolved, as although the detail of the scheme will be determined at reserve matters stage, it is necessary to ensure the spirit of the scheme and design principles set out in the Design and Access Statement are appropriate to the site and its setting.

The applicants have been advised of the above and a response is awaited.

- 3.4 **Housing Officer:** no objection to this application, the applicant has stated the need to provide a policy compliant quantity of affordable housing on site and has given an indicative unit and tenure mix to confirm with this requirement. 35% affordable housing equates to 19 units, not 18 as stated in the in the applicant's affordable housing statement. There should be a 13 rent and 6 low cost home ownership split. As noted in the submission the affordable units should, as far as possible, be indistinguishable from the private market housing creating tenure blindness. The clustering sizes proposed is acceptable, that is, between 6-10 units and should be transferred to a Registered Provider which will need to be agreed with the council. The applicant has suggested that the affordable housing will be secured through condition rather than sec 106 agreement. This is unacceptable and not consistent with Cherwell's approach on this matter.

Although the indicative unit mix is a reasonable approach, it is suggested that the following mix better suits Cherwell's housing needs

Affordable rent	Intermediate housing
2x1 bed person maisonettes	6x2bed4person houses
6x2bed4person houses	
5x3bed5person houses	

The applicant has indicated that they would be open to discussions around a proportion of the affordable housing to be delivered in the form of a commuted sum in order to re-provide affordable housing in another part of the district. Further consideration and negotiations are needed in order to consider whether this approach might meet the council's strategic housing objectives.

- 3.5 **Environmental Protection Officer:** land contamination may be an issue depending on any former potentially polluting activities that may have been undertaken from the site or even possible elevated levels of naturally occurring contamination such as arsenic, nickel or even vanadium.

The Desk Study Report prepared by Hydrock Consultants has been reviewed which advises that further ground investigation works may need to be carried out on the



site. A condition is recommended.

- 3.6 **Landscape Officer:** The site has good boundary vegetation on all sides. Although there is a large amount of ash which could be decimated by disease if these trees fall prey to chalara Ash dieback. Some planting of other species to guard against this would be a sensible precaution. Planting on boundaries should be of native species. I have visited the majority of viewpoints in the study. The Landscape and Visual Impact Appraisal is a fair assessment of the likely impact of the development. Clearly the assessment was made in summer when screening is at its best, but the impacts will not be greatly increased in winter as they are generally low in the first place. A LAP and LEAP will be needed for over 50 dwellings. Although this is only outline, I would prefer the play to be more centrally located where there will be adequate overlooking. The provision of the play element is not needed on the periphery to increase screening of the site.

It is inevitable that the site will be visible in the immediate vicinity, however the limit of the impact barely extends to the wider landscape where glimpses may be visible, but little more. I cannot object to this proposal on landscape and visual grounds.

- 3.7 **Anti Social Behaviour Manager:** the greatest concern would be the possible impacts that Redlands Farm, to the north of the development may have on the proposed dwellings. I would describe Redland Farm as being an intensive dairy unit with farming activities focussed around milk production and the rearing of herd followers. The potential impacts generated by this type of operation would be noise, odour and insect pests.

The applicants have addressed the issues presented by noise in a satisfactory manner with a report prepared by Wardell Armstrong accompanying the application. The report dated March 2014 contains details of a comprehensive noise survey carried out and in discussion the consultants refer to the noise standards contained in the WHO document 'Guidelines for Community Noise' and have used British Standard BS 4142:1997 to assess the noise impacts of farming activities on the proposed dwellings. Both are appropriate on the basis of a noise assessment for this site. The report concludes that acoustic insulation and either close boarded fencing or a bund will be needed to mitigate noise from the farm. The report also makes recommendations regarding the standard of double glazing and acoustic ventilation of individual dwellings. Subject to these recommendations being conditional to any approval given, noise should not be an issue for this development.

The issue of potential odour emissions from the site is less well dealt with. Within the air quality assessment report mentions odour. The report, presented in the form of a letter suggests that a qualitative odour assessment has been undertaken which indicates that odour was detected for a few minutes during an unspecified time that the survey was undertaken. In contrast to the noise report I do not consider this robust enough and would have expected to see some evidence relating to the range of odour producing activities undertaken. The approach described in the Institute of Air Quality Managements recently published document 'Guidance on the Assessment of Odour for Planning' would form the basis of a robust assessment.

The presence of insects is not a matter that can be subjectively assessed and in many respects is linked to the odour generating potential of activities on the farm site. Housed livestock generally support an insect population and the degree of impact should be included in the assessment of the site with reference to the features and buildings on the farm their use and the potential radius of impact of insects that may be associated with this activity.

The applicants have not demonstrated that odour from Redlands Farm will not impact on their proposed development and as a consequence I would be concerned if the development were permitted to proceed without further work being done in this area.

Following the above consultation response the applicants have submitted an Odour Impact Assessment and Addendum. Final comments in respect of this additional report are as follows:

- Having received a revised and updated odour impact assessment in the format requested, I have now reviewed the issues. From an environmental perspective, the potential impacts arising from the sites proximity to Redlands Farm are paramount. Redlands Farm is an intensive dairy unit accommodating upwards of 400 cattle. Such operations have the potential to give rise to odour, noise and in some circumstances increased numbers of insects, all of which could adversely affect residential properties that were located too close to the farming operation. Indeed if the situation were to be reversed and the proposal was to establish an intensive livestock unit close to existing dwellings planning consent would be required if the livestock housing was within 400m of the properties. The distance gives some scale to the potential range at which adverse impacts could occur.
- Whilst the odour impact assessment that has been submitted is in the format requested, no additional base line data has been added to the appraisal, and the report is based on one attendance at site. On reflection this baseline is insufficient to make a robust judgement as to the potential for odour. Representations have identified a range of farming activities that are recognised as having the potential to give rise to odours. These would include the handling of slurry, the formation and subsequent feeding of silage to housed livestock and the housed animals themselves. None of these conditions were assessed subjectively. On this basis I would submit that the applicants have not demonstrated that the proposed development will not be adversely affected by odour from Redlands Farm.
- In their odour assessment they suggest that the use of planting may be a means of mitigation odours and refer to studies as to the performance of various tree species as 'dust traps'. These claims are not referenced and I would be concerned that although vegetation does have the ability to trap dust, many odours are not simply entrained with dust particles but are dispersed as aerosols at molecular level. I am not aware that vegetative barriers are able to significantly reduce the levels of odour when it is dispersed in this form.
- The adverse impact of insects has been mentioned in comment on the application. A range of insects are often found in association with housed livestock and in this environment are very difficult to control at source. A good proportion of the site would be within the flying range of these species and the proposed dwellings could be considered at risk from annoyance caused by their presence.
- As indicated previously, I am broadly satisfied that the applicants acoustic report had assessed the potential sources of noise from the Redlands Farm site. The assessment does address the levels of mechanical noise produced by the site under average conditions. What has not been taken into account are the seasonal effects such as the increase in noise during activities such as silage making and the noise produced by livestock themselves.
- On balance I feel the potential for Redlands Farm to adversely affect the proposed dwellings is such that the development should not be permitted as the potential exists for statutory nuisances to arise caused by the nearby dairy unit. The applicant's odour assessment in particular has not demonstrated to my satisfaction that the proposed dwellings will not be adversely affected.
- Would be contrary to retained Policy ENV1 and point 4 of paragraph 109 of the NPPF.

3.8

**Arboricultural Officer** – there are a number of trees on the perimeter of the site, these are a mixture of B and C category trees. It is proposed that one section of hedge (H1) is removed to gain access to the site. This hedge has been categorized

as a C category hedge in accordance with BS5837:2012. C category trees should not normally pose a constraint to a development. The loss of this section of hedge should not have a significant impact on the amenity of the area. There does not appear to be a tree constraints plan showing the root protection zones of the trees to be retained together with the proposed site layout. Without such a plan it is difficult to gauge what impact the proposed development is going to have on trees on site. However, the Arboricultural Assessment document implies that the remainder of the trees are to be retained. Vehicular access will apparently impinge onto the RPA of t1. The road should be constructed where it impinges onto the RPA of t1 using no dig techniques. A number of conditions are recommended.

- 3.9 **Ecology Officer:** The ecological survey found no evidence of any protected species using the site and the likelihood of any being present was considered to be negligible. Ecological enhancements in the form of additional boundary planting, informal grassland, SUDS area, appropriate management of retained hedgerows and the provision of new bat roosting and bird nesting opportunities are suggested in the May 2014 ecological appraisal. The bat roosts and bird nest boxes, as stated in the report, should be a mixture of types, with some being incorporated in to the new dwellings. Swifts are present in the village and incorporated nest boxes for this species should be considered where the building design allows. Conditions and an informative are recommended.

#### **Oxfordshire County Council Consultees**

- 3.10 **Highways Liaison Officer:** The objectives of the 'Local Transport Plan 2011-2030 (Revised April 2012)' reinforce the need to ensure the sustainability of rural areas and include the objectives for rural transport of:
- Supporting access to work, education and services for the residents of rural Oxfordshire
  - Supporting the rural economy through access to rural Oxfordshire for all (local residents and non-residents)
  - Maintaining and improving the condition of local roads, bridleways, footpaths and cycleways and supporting access by all modes.

This site is located on the periphery of Hook Norton, a rural village in north Oxfordshire with poor accessibility and only very limited shops and services available locally. Walking and cycling may be appropriate for trips within the village but are highly unlikely modes for non-recreational trips beyond the settlement. A bus service is available, but its frequency is poor with a limited number of destinations available. Employment opportunities within Hook Norton are few and the primary school will require extension to accommodate the expected increased demand. The CRAITLUS Study raised similar concerns and noted that Hook Norton was among the most remote settlements in terms of access to the larger county towns. Sustainability in terms of accessibility and dependence on the private car, is clearly a concern but this is a matter for the Local Planning Authority to determine in conjunction with the other sustainability merits of the development; and in terms of the NPPF it may be difficult to prove severe detrimental impact based on transport matters alone.

Travel Plans aid in encouraging modal shift to a more sustainable travel. OCC's guidance, 'Transport for New Developments: Transport Assessments and Travel Plans March 2013' states that for a development of 50 to 79 dwellings a travel plan statement is required. The documents submitted with the application include a travel plan but some amendment is needed to meet the requirements outlined in the OCC guidance. This matter is best dealt with by condition and further advice may be obtained from the Travel Plans Team at OCC.

The proposed site access is appropriate and plans show the provision of a footway

**connecting to existing provision. The layout of the site is not to be determined at this stage; however, illustrative plans appear acceptable in principle.**

Hook Norton village is connected to Banbury and Chipping Norton by bus route 488, which offers a broadly hourly service on weekday daytimes. There are however, several recognised deficiencies with this service, including the lack of a morning peak service to Chipping Norton and a lack of an evening and Sunday service.

Developer funding is sought with the aim of improving the frequency and hours of operation of this bus route in order that new residents would benefit from improved connectivity to Banbury and Chipping Norton, where employment and other facilities can be found. The sums sought are similar to other developments in this area that are outside of the Local Plan.

A number of conditions are recommended together with a financial contribution of £862 per dwelling towards improvement of the Chipping Norton-Banbury bus service and a contribution of £4,000 towards improved bus stop facilities at The Green. A S278 under the Highways Act will be required in respect of works within the highway relating to access works and footway provision.

3.11 **Drainage Officer:** A full drainage strategy, layout plans and drainage calculations will be required and approved by the Lead Flood Authority (OCC) prior to the commencement of any development.

3.12 **Education:** A feasibility study has been conducted to identify how Hook Norton CE Primary School could grow in a manner which is cost-effective, without compromising the high quality of education provided by this school. The County Council's proposed strategic response to population growth arising from a number of housing proposals in and around Hook Norton CE Primary School is the expansion of Hook Norton school to 1.5 form entry. This would be subject to statutory approval process. All relevant housing developments in the area would be expected to contribute towards the cost of this expansion.

Following recent expansion of the school's accommodation, Chipping Norton secondary School has sufficient spaces to absorb the level of housing growth likely in this area.

3.13 **Property:** no objection subject to the imposition of conditions and a legal agreement to secure contributions as follows:

- Library £2,942
- Waste Management £9,415
- Museum Resource Centre £736
- Adult Learning £1,599
- Health and Wellbeing Resource £11,990
- Administration and Monitoring £3,750

The above contributions have been based on a specific development mix.

A number of key issues are also raised

- The single access indicated presents concentrated increase in traffic movement in the proximity of young children arriving and departing from the school site thus increasing risk.
- Potential disruption by way of increased vehicular movement and increase in noise and air pollutants has the potential to disrupt the delivery of school services during construction and implementation phases. Mitigation of these issues can be achieved by moving the entrance to the development to the north as far as the site lines will allow. Any increase in traffic incidence and movement needs to be concentrated away from the school entrance.
- Welcome SUDS to the south-east of the site to ensure that there is no run-off

onto the school site

- 3.14 **Archaeology:** the site lies within an area of some archaeological interest but in an area where little archaeological investigation has been undertaken and therefore very little is known. A possible Bronze Age barrow is recorded 390m to the west of the site although it is possible that this is a post medieval windmill tump. A second barrow has been recorded from aerial photographs 900m to the west. A number of find spots of prehistoric flint tools and roman pottery have been recovered from the general area of the site. An archaeological evaluation on a site to the west of this application recorded an undated linear feature. The site has seen little recent disturbance and therefore if unknown archaeological features are present on the site it is possible they could be fairly well preserved.

A condition is therefore recommended to ensure a staged programme of archaeological investigation during construction.

#### Other Consultees

- 3.15 **Thames Water:** no comments received to date
- 3.16 **Environment Agency:** The proposed development is located in Flood Zone 1 (low probability) based on our Flood Zone map. Whilst development may be appropriate in Flood Zone 1, paragraph 103 (footnote 20) of the NPPF sets out a Flood Risk Assessment should be submitted for all developments over one hectare in size. We note a Flood Risk Assessment has been submitted but as the site lies in Flood Zone 1 and is between 1 – 5 hectares we do not intend to make a bespoke response but the following key points should be considered
- Surface water runoff should not increase flood risk to the development or third parties. This should be done by using SUDS to attenuate to at least pre-development runoff rates and volumes or where possible achieving betterment in the surface water runoff regime
  - An allowance for climate change needs to be incorporated, which means adding an extra amount to peak rainfall (30% for residential)
  - The residual risk of flooding needs to be addressed should any drainage features fail or if they are subjected to an extreme flood event. Overland flow routes should not put people and property at unacceptable risk. This could include measures to manage residual risk such as raising ground or floor levels where appropriate.
- 3.17 **Natural England:** No objection. The application is in close proximity to Hook Norton cutting and Banks SSSI and Whichford Woods SSSI. Natural England is satisfied that the development as submitted will not damage or destroy the interest features for which the site have been notified and therefore these SSSI's do not represent a constraint in determining this application. Should the details of the application change, Natural England should be re-consulted.

The Local authority should also assess and consider other possible impacts on local sites, local landscape character and local or national biodiversity priority habitats and species. The application has not been assessed in terms of impact on protected species.

In terms of biodiversity enhancements, the application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if minded to grant permission. This is in accordance with Paragraph 118 of the NPPF.

## **4. Relevant National and Local Policy and Guidance**

### **4.1 Development Plan Policy**

#### **Adopted Cherwell Local Plan (Saved Policies)**

C8:	Sporadic development in the countryside
H13:	Category 1 Settlements
H18:	New dwellings in the countryside
C2:	Protected Species
C5:	Creation of new habitats
C7:	Harm to the topography and Character of the Landscape
C9:	Beyond the existing and planned limits of Banbury and Bicester
C13:	Area of High Landscape Value
C27:	Development in villages to respect historic settlement pattern
C28:	Layout, design and external appearance of new development
C30:	Design of new residential development
C33:	Protection of important gaps of undeveloped land
R12:	Public Open Space provision
ENV12:	Contaminated land
TR1:	Transportation funding

### **4.2 Other Material Policy and Guidance**

National Planning Policy Framework 2012 – Core planning principles and the delivery of sustainable development with regard to the following sections:-

- 4: Promoting sustainable transport
- 6: Delivering a wide choice of high quality homes
- 7: Requiring good design
- 8: Promoting healthy communities
- 10: Meeting the challenge of climate change and flooding
- 11: Conserving and enhancing the natural environment

Non-Statutory Cherwell local Plan 2011. Whilst some policies within the plan may remain to be material considerations, other strategic policies have in effect been superseded by those in the Submission Local Plan (January 2014). The main relevant policies to consider are as follows:-

Policy H15:	Category 1 Settlements
Policy H19:	New dwellings in the countryside
Policy EN30:	Sporadic development in the countryside
Policy EN31:	Beyond the existing and planned limits of Banbury and Bicester
Policy EN34:	Conserve and enhance the character and appearance of the landscape

### **4.3 Submission Local Plan 2006 - 2031**

The Plan was submitted to the Secretary of State on 31 January 2014 for Examination. There are outstanding objections to some policies which have yet to be resolved.

The Examination commenced on 3 June 2014. On 4 June 2014 the Inspector temporarily suspended the examination to enable the Council to prepare modifications to the Plan to accommodate additional homes across the district.

The main policies relevant to this proposal are:

Policy villages 1: Hook Norton is identified as a Category a village where infilling, minor development and conversions will be permitted.

Policy Villages 2: Distributing Growth across the rural areas

Policy BSC3: Provision of affordable housing. In rural settlements proposals for residential development of 3 or more dwellings will be expected to provide at least 35% affordable homes on site.

Policy ESD 3: Sustainable construction. All new homes are expected to meet at least Code Level 4 of the Code for Sustainable Homes.

Policy ESD 7: Sustainable drainage. All development will be required to use SUDS for the management of surface water run-off.

Policy ESD 10: Protection and enhancement of biodiversity and the natural environment.

Policy ESD13: Local Landscape Protection and Enhancement expects developments to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided

Policy ESD16: the character of the built and historic environment should be protected and where development is allowed it should respect the local character context.

## **5. Appraisal**

5.1 The key issues for consideration in this application are:

- Relevant Planning History
- Planning policy and the Principle of development
- Five year housing land supply
- Noise and odour from Redland Farm
- Landscape impact and trees
- Design and Access Statement
- Transport assessment
- Ecology
- Flooding and drainage
- Contamination
- Archaeology
- Delivery of the Site
  
- Planning obligation

### **Planning History**

5.2 There is no relevant planning history on the application site. An application for 70 houses on a site to the west of the application site was granted outline planning permission on appeal by the Secretary of State on 23<sup>rd</sup> September 2013 (APP/C3105/A/12/2184094). The Secretary of State, in making his decision, concluded that although the proposal would be contrary to some of the policies in the out of date adopted Local Plan, the Council did not have a five year housing land supply, so little weight could be given to the relevant housing policies in the development plan. He considered Hook Norton to be a sustainable location for development. Whilst he acknowledged that development of the site would cause some moderate and localised harm to the character and appearance of the

countryside he was satisfied that this would be limited and would not significantly and demonstrably outweigh the benefits of the scheme.

### **Planning Policy and the Principle of Development**

- 5.3 The Development Plan for Cherwell District comprises the saved policies in the Adopted Cherwell Local Plan 1996. Section 70(2) of the Town and Country Planning Act 1990 provides that in dealing with applications for planning permission the Local Planning authority shall have regard to the provisions of the development plan, so far as is material to the application, and to any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the development plan unless material considerations indicate otherwise.
- 5.4 The site in question is not allocated for development in any adopted or draft plan forming part of the development plan. Hook Norton is designated as a category 1 settlement in the adopted Cherwell Local Plan. Policy H13 of that Plan states that new residential development within the village will be restricted to infilling, minor development comprising small groups of dwellings within the built up area of the settlement, or the conversion of non-residential buildings. The site is not within the built up limits of the village and is therefore in open countryside. Policy H18 of the adopted Cherwell Local Plan restricts new dwellings beyond the built up limits of settlements, in open countryside to those which are essential for agriculture, or other existing undertakings, or where dwellings meet a specific and identified housing need that cannot be met elsewhere. These policies are carried through in the non-Statutory Cherwell local Plan. The adopted Cherwell Local Plan contains no specific allocation for this site and the proposal clearly does not comply with this policy criterion and therefore represents development beyond the existing built up limits of the village into open countryside. The proposal therefore, needs to be assessed against Policy H18 which limits residential development beyond the existing built up limits of settlements unless they are agricultural workers dwellings and affordable housing. Quite clearly the development fails to comply with this policy and in doing so also potentially conflicts with rural conservation Policy C7 which does not normally permit development which would cause harm to the topography and character of the landscape. Policy C8 seeks to prevent sporadic development in the open countryside but also serves to restrict housing development.

### **National Planning Policy Framework**

- 5.5 Paragraph 49 of the NPPF states 'housing applications should be considered in the context of a presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable sites.
- 5.6 The NPPF sets out the economic, social and environmental roles of planning in seeking to achieve sustainable development: contributing to building a strong, responsive and competitive economy; supporting strong, vibrant and healthy communities; and contributing to protecting and enhancing our natural, built and historic environment (paragraph 7). It also provides (paragraph 17) a set of core planning principles which, amongst other things require planning to:
- Be genuinely plan led, empowering local people to shape their surroundings and to provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency
  - Proactively drive and support sustainable economic development
  - Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
  - Support the transition to a low carbon future in a changing climate
  - Encourage the effective use of land by reusing land that has been previously developed



- Promote mixed use developments
- Conserve heritage assets in a manner appropriate to their significance
- Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus significant developments in locations which are, or can be made sustainable
- Deliver sufficient community and cultural facilities and services to meet local needs

The NPPF at paragraph 14 states 'At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking'....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 impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, or
- Specific policies in this framework indicate development should be restricted

- 5.7 The Adopted Cherwell Local Plan 1996 is out of date in relation to the policies regarding delivery of housing. The NPPF advises that due weight should be given to relevant policies within existing plans according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the Framework, the greater the weight may be given). The Development Plan (the adopted Cherwell Local Plan) contains no up to date policies addressing the supply of housing and it is therefore necessary to assess the application in the context of the presumption in favour of sustainable development as required by the NPPF.
- 5.8 Whilst it is acknowledged that Hook Norton is one of the more sustainable villages, this does not necessarily mean that the proposal itself constitutes sustainable development. The NPPF sets out three dimensions to sustainable development, those being economic, social and environmental which are considered below. In respect of the appeal at Bourne Lane, it is important to note that due to the range of facilities within the village, and the inclusion of Hook Norton as a category 1 settlement, that he concludes that Hook Norton is a sustainable location. He also concluded that whilst the village does not have a piped gas supply and that electricity supply and broadband connectivity can be poor, that these did not alter his overall assessment of the range of facilities available within the village.
- 5.9 In relation to the economic role, the NPPF states that the planning system should do everything it can to support sustainable economic growth and the development is likely to provide jobs during the construction phases of the scheme, and in the longer term provide economic benefit to local shops and businesses. This was also acknowledged by the Inspector in the Bourne Lane appeal.
- 5.10 In terms of environmental, the development must contribute to the protection and enhancement of the natural, built and historic environment by improving biodiversity. Whilst this is a green filed site and its loss will cause harm to the character and appearance of the countryside, this would be limited by short distance views within the immediate vicinity of the site. The development proposal also includes area of public open space, landscaping and additional tree and hedge planting. Conditions can be imposed to ensure that an ecological enhancement scheme is carried out as part of the development.

#### **Five Year Housing Land Supply**

- 5.11 Section 6 of the NPPF 'delivering a wide choice of high quality homes' requires local

**planning authorities to significantly boost the supply of housing by identifying key sites within the local plan to meet the delivery of housing within the plan period and identify and update annually a 5 year supply of deliverable sites within the district.**

**Paragraph 031 Reference ID: 3-030-20140306 of the Planning Practice Guidance – Housing and Economic Development Needs Assessments states that the NPPF sets out that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements. Therefore local planning authorities should have an identified five-year supply at all points during the plan period. Housing requirement figures in up-to-date adopted local plans should be used as the 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. It should be borne in mind that evidence which dates back several years, such as that drawn from revoked regional strategies, may not adequately reflect current needs.**

Where evidence in local plans has become outdated and policies in the emerging plans are not yet capable of carrying sufficient weight, information provided in the latest assessment of housing needs should be considered. But the weight given to these assessments should take account of the fact they have not been tested or moderated against relevant constraints. Where there is no robust recent assessment of full housing needs, the household projections published by the Department for Communities and Local Government should be used as the starting point, but the weight given to these should take account of the fact they have not been tested (which could evidence a different housing requirement to the projection, for example, because of past events that affect the projection are unlikely to occur again or because of market signals) or moderated against relevant constraints (for example environmental or infrastructure).

On 28 May, the Council published a housing Land Supply Update which showed that there was a five year housing land supply, based on the Submission Local Plan requirement of 670 homes per annum from 2006 to 2031. The examination of the Local Plan began on 3 June 2014. On that day, and the following day, 4 June 2014, the Local Plan's housing requirements were discussed in the context of the Oxfordshire Housing Market Assessment (SHMA) 2014, published on 16 April 2014 (after the submission of the Local Plan in January 2014).

The Oxfordshire Strategic Marketing Assessment (SHMA) 2014 was commissioned by West Oxfordshire District Council, Oxford City Council, South Oxfordshire District Council, Vale of White Horse District Council and Cherwell District Council and provides an objective assessment of housing need. It concludes that Cherwell has a need for between 1,090 and 1,190 dwellings per annum. 1,140 dwellings per annum is identified as the mid-point figure within that range.

The Planning Inspector appointed to examine the Local Plan made clear his view that the SHMA document provided an objective assessment of housing need in accordance with the NPPF and suspended the Examination to provide the opportunity for the council to propose 'Main Modifications' to the Plan in the light of the higher level of need identified. The 1,140 per annum SHMA figure represents an objective assessment of need (not itself the housing requirement for Cherwell) and will need to be tested having regard to constraints and the process of Strategic Environmental Assessment/Sustainability Appraisal. However, the existing 670 dwellings per annum housing requirement of the submission Local Plan (January 2014) should no longer be relied upon for the purpose of calculating the five year housing land supply. Until 'Main Modifications' are submitted to the Secretary of State for Communities and Local Government, the objectively assessed need figure of 1,140 homes per annum from the SHMA is considered to be the most robust and

defensible basis for calculating the five year housing land supply.

A further Housing Land Supply Update (June 2014) has been approved by the Lead Member for Planning. It shows that the District now has a 3.4 year housing land supply which includes an additional 20% requirement as required by the NPPF where there has been persistent under-delivery. It also seeks to ensure that any shortfall in delivery is made-up within the five year period. The District does not therefore have a 5 year housing land supply and as a result of the NPPF advises in paragraph 14 that planning permission should be granted unless 'adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this framework taken as a whole.'

However, notwithstanding the Council's Housing Land Supply position, it should be noted that the NPPF does not indicate that in the absence of a five year supply that permission for housing should automatically be granted for sites outside of settlements. There remains a need to undertake a balancing exercise to examine any adverse impacts of a development that would significantly and demonstrably outweigh the benefits.

#### 5.12 **Submission Cherwell Local Plan**

The proposed Submission Cherwell Local Plan is not adopted and therefore carries limited weight, but does set out the council's proposed strategic approach to development within the district to 2031, with the majority of new development being directed to the urban areas of Bicester and Banbury. The Plan does, however, recognise that some development will have to be permitted in rural villages on order to meet the needs of the rural population.

Policy Villages 1 of the Plan designates Hook Norton as a Category A village, and therefore one of the Districts most sustainable based on criteria such as population, size, range of services and facilities and access to public transport. Policy Village 2 seeks to distribute the amount of growth that can be expected within these villages, although how the numbers will be distributed is not specified as precise allocations within each village would be set out in the Local neighbourhoods Development Plan Document, based on evidence presented in the SHLAA. This document is to be prepared following the adoption of the emerging local plan.

It is evident from the above that the proposed development is contrary to policies within the adopted Cherwell Local Plan and is not allocated for development within the Submission Cherwell Local Plan. As previously expressed however, the Adopted Cherwell Local Plan is out of date in terms of allocating land for new housing development, and the Submission Cherwell local Plan currently carries limited weight in the consideration of new development proposals. As such a refusal based on these grounds alone is unlikely to be defensible at appeal and has to be weighed against other material considerations, the most significant being the need to provide a five year housing land supply.

However, notwithstanding the Council's Housing Land Supply position as stated above, the proposal would give rise to conflict with a number of policies in the adopted Cherwell Local Plan, Non-Statutory Cherwell local Plan and the Submission Local Plan. Paragraph 14 of the Framework makes it clear that there is a presumption in favour of sustainable development and that permission should be granted unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against policies in the Framework taken as a whole. It does not however indicate that an absence of a five year land supply means that permission should automatically be granted for sites outside settlements. There remains a need to undertake a balancing exercise to examine any adverse impacts of a development that would significantly and demonstrably outweigh the benefits of it and also the harm that would be caused by a particular scheme in order to see

whether it can be justified. 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 Framework. It is also necessary to recognise that Section 38 of the Act continues to require decisions to be made in accordance with the development plan and the Framework highlights the importance of the plan led system as a whole. The identified issues of acknowledged importance are identified and considered below.

**5.13 Prematurity to the Submission Local Plan and Hook Norton Neighbourhood Plan**

In terms of the Hook Norton Neighbourhood Plan, whilst it is understood that Hook Norton are seeking to move forward with a neighbourhood Plan and this has been submitted to the District Council for consideration, previous appeal decisions and recent Central Government Advice has made it clear that the neighbourhood plan must be in general conformity with the strategic policies of the Local Plan and until such time that the local plan is adopted and the neighbourhood plan developed in line with the DPD, and the Council has a five year housing land supply, this carries very little weight.

In respect of prematurity, the NPPF advises that the refusal of a planning consent on the grounds of prematurity will seldom be justified where a draft local plan has yet to be submitted for examination, or in the case of a neighbourhood plan, before the end of the local planning authority publicity period. The development proposed is not considered to be of such a scale and importance that it would prejudice the outcome of the plan-making process.

This matter was addressed by the Inspector in respect of an appeal in Adderbury, concluding that

'The Adderbury Neighbourhood Plan is at a very early stage in its preparation. It was stated that a sustainability appraisal/strategic environmental assessment has not yet been prepared; there has been no pre-submission consultation. Even after these processes it would need to be submitted to the district council, publicised and submitted for examination. The examiner would have to consider if it is in conformity with the strategic policies in the development plan; there is no up-to-date plan for the area. In these circumstances I consider dismissal of the appeal on the grounds of prematurity in relation to either the PSLP or the Adderbury Neighbourhood Plan is not justified.'

In respect of the Hook Norton Neighbourhood Plan, whilst this may now be a little more advanced and has been submitted to the district council and considered by the Executive, as the Submission Cherwell Local Plan has been suspended from Examination, and the Neighbourhood Plan has not been examined, it cannot be considered to be in conformity with that local plan.

**5.14 Noise, Odour and Relationship with Redlands Farm**

The site is situated to the south of Redlands Farm, a dairy farm. The livestock on site comprise 400 high yielding dairy cows together with female replacements. Production is 4 million litres of milk per annum on a level profile for the domestic liquid market. The unit has a turnover of £1.5 million per annum employing 3 full time and 5 part time staff all of whom live locally. It is an arable and dairy unit with the field work being carried out by a contractor. The dairy unit is labour intensive, but the arable is highly mechanised with a low staff requirement.

A noise assessment report has been submitted with the application which considers traffic noise from the Sibford Road and from Redlands Farm adjacent and the possible impact on the occupiers of the proposed development. A noise survey was carried out on 19 February 2014, to assess the ambient noise levels across the site. Attended noise measurements were taken at three monitoring locations; (i) 10m from

the northern site boundary closest to Redlands Farm; (ii) 10m from the western boundary, closest to Sibford Road and (iii) 5m from the southern boundary, closest to Hook Norton Primary School. All noise monitoring took place during dry and calm weather conditions. Road Traffic Noise from occasional traffic on the Sibford Road was audible at all monitoring locations and noise from activities and cattle at Redlands Farm was audible at monitoring locations 1 and 2 during daytime and night time periods. Typical noise was from cattle housed in the sheds, air extraction equipment, HGVs, farm equipment and the farmer shouting. Birdsong was audible at all locations during the day-time and night-time periods.

The results of the noise assessment, for the proposed residential areas of the development, indicate that noise mitigation measures would need to be incorporated into the design to ensure that the required noise levels are achieved in living rooms and bedrooms. In addition, mitigation measures are required to reduce the noise from Redlands Farm to an acceptable level at the proposed dwellings in the northern part of the site. Dwellings nearest to and in direct line sight of Sibford Road and Redlands Farm to the west and north will require acoustic ventilation to enable windows to remain closed whilst allowing the necessary ventilation. However, mitigation measures will need to be implemented to reduce intermittent and tonal noise from Redlands Farm in outdoor living areas. Prediction calculations show that a 3.5m bund or bund and close boarded fence combination will be required on the northern site boundary.

An odour impact assessment was not included in the original submission but was submitted following a request from the Council's Anti-Social Behaviour Manager. The report has been produced in accordance with the 'Guidance on the assessment of odour for planning', a document produced by the Institute of Air Quality Management. The report submitted states that information on the odour potential for Redlands Farm has been obtained by reference to the information contained in the letter of objection to the proposed development by Mr D R Gasson dated 21 June 2014, publically available information from planning application 11/01599/F and 02/00160/F for Redlands Farm, and aerial photography.

Odour will arise from animal waste and urine that comes from the animals within the building; from the slurry lagoon and from the silage clamp, as well as from the general activities on site. The odour sources will be diffuse in nature from the buildings and general farm area. The release of odour will fluctuate according to the activities being undertaken. Odour will generally increase when manure is being cleared from the farm yard, slurry is being pumped and when silage is removed from the clamp. Good silage production will tend to have a sweet smell due to the production of lactic acid in the fermentation process, and the odour is only released when the silage clamp is disturbed for the removal of feed. The amount of odour generated will also depend on temperature, with higher amounts of odour being released in summer months due to higher biological activity.

A site visit was undertaken on 25 July 2014. Weather conditions were dry and very warm, with an approximate temperature at 5pm of 26 degrees C and relatively high barometric pressure. The visit followed a long period of dry warm weather where the conditions of odour generation would be expected to be at their maximum. The wind was a gentle breeze from the north. A sniff test was undertaken, the three general areas were tested; (i) the closest existing residential area to the farm; (ii) the southern boundary of the proposed development site; and, (iii) the public road immediately to the west of the farm. It was not possible to access the northern end of the proposed development site due to the presence of crops. No odour was detected at the nearest existing residential property to the farm, which was in the downwind direction at the time of the test. No odour was detected on the southern boundary of the site. Odour was detected from the Sibford Road outside the farm and along the road partly in front of the application site. Where the odour was detected it was present almost

**constantly, reflecting the relatively constant gentle breeze blowing from the direction of the farm.**

**As the sniff test is only one snapshot of the odour situation in the area of the farm, it is necessary to interpret these results for the more general situation that may occur in respect of the farm. The assessment states that the tests were undertaken under the worst conditions for odour generation and as it only extended about one third of the site down the Sibford Road, the majority of the site would not be affected by adverse odour effects.**

The report concludes that in the northern part of the development site, receptors are likely to be subject to some adverse odour effects from the farm under worst case conditions, but these conditions occur very infrequently. The remainder of the site is likely to be largely unaffected, even under worst case conditions. With additional vegetation screening on site, and taking into account the likely frequency of the exposure, the overall effect is considered to be slight adverse. Odour travels by way of particulates. Managing particulates aids in the management of odours, through interception and retention. The strategic placing of vegetation to form a vegetative barrier has a beneficial physical impact on odour. The proposed mitigation, by the inclusion of a 3m wide vegetative barrier adjacent to the northern boundary of the development proposal, in conjunction with the proposed 3.5m high acoustic fence, will further reinforce and enhance the existing vegetative barrier employed by Redlands Dairy, located between the site and the existing dairy. The inclusion of the additional vegetative barrier within the development proposal is likely to further reduce the slight adverse effects of the odour from the Dairy. This in turn will have a further beneficial physical impact on the odour from the Dairy.

The findings above, both in terms of noise and odour are not consistent with comments that have been received from local residents in conjunction with this application. Residents living in proximity to the site have stated that odour and noise are an issue from the farm at certain times of the day and year. One resident in Sibford Road has commented that there is noise from the bleeping of milking machines from 5am and bellowing from cows when separated from their young, having logged this recently following the submission of this application stating that over the past six weeks he has logged 36 occasions when this has been noted. He also comments that several properties in Sibford Road have commercial fly killing machines to deal with the flies from the slurry pit. Complaints from residents in the new development could consequently have an impact on the viability of the farm.

Letters of representation have been received from the owners of Redlands Farm and the Manager stating that the development could pose a threat to the future of the business, stating that it is not possible to operate the unit without noise from machinery and equipment, from 5am for most of the day and on occasion late into the night, 365 days a year. There is also smell and flies from the slurry produced, silage clamps and when the slurry is spread on the fields. It is also stated that if the proposed dwellings already existed and consent for a large dairy unit immediately adjacent was being sought, it is likely that the proposal would be turned down for the above nuisance factors. Redlands Farm is a modern unit in which £2 million has been invested in over recent years. In terms of the noise assessment, it is not considered to be representative of noise from the farm as this period did not include any pumping of slurry, removal of farm yard manure or silage making which are noisy activities.

The submission by the applicants provides no evidence to the contrary that there will not be an increased nuisance to those living progressively closer to the dairy unit beyond the existing built edge of the village. Notwithstanding the revised format of the submitted odour assessment, it is considered that the baseline data is insufficient to give the Council confidence that the odour impact has been fully assessed.

The applicants suggest that the planting of a mixed vegetative barrier will offer some protection to the proposed dwellings from odours. A claim is made that in particular, conifers will trap dust particles, and reference is made to studies that indicate the performance of various species. These studies are not referenced and it appears that they are confined to dust capture. The concern is therefore that the performance of these barriers in respect of biological aerosols has not been quantified.

It is concluded therefore that the applicant has not demonstrated that the proposed development will be entirely free from unacceptable levels of odour.

Increased numbers of insects are generally found in association with intensive livestock operations. In such situations they are very difficult to control and the development site falls within the range of a number of insect types, as such, it is a concern that the occupants of any dwellings built on the site may be subject to unacceptable levels of annoyance from insects at certain times of the year.

#### 5.15 **Design and Access Statement**

A design and access statement has been submitted with the application which sets out the framework for the proposed development of the site. An illustrative masterplan has also been submitted. The masterplan indicates that 54 dwellings can be accommodated within the site and indicates an attenuation feature and play space in the south eastern corner of the site adjacent to the primary school boundary. Whilst the submitted statement contains an appropriate level of design analysis which generally supports the overall design approach for the site, the applicants were requested to provide more information on the analysis of the local morphology and vernacular, with design and layout cues being taken from the historic core rather than examples of 20<sup>th</sup> Century development within the village. The statement also proposed dwellings of up to 3 storeys in height and gable spans up to 12m in width which were not considered to be acceptable for this site. The Statement also failed to address the requirements of the noise assessment which concluded that the mitigation measures should include a 3.5m high acoustic fence/and or bund.

Concerns were raised over the need to provide an acoustic fence to protect the new development from noise generated by Redlands Farm in terms of its visual impact and relationship with the new development which is shown as backing onto this area. An addendum to the original design and access statement indicates that in order to mitigate the effects of both noise and odour, the planting of an evergreen screen, the erection of an acoustic fence, a landscaping belt and rear garden fencing. The applicants state that this area could then be maintained and managed in the same way as any landscaped area or area of open space. The statement has been amended to indicate gable spans between 5-8m and a maximum ridge height of 10.5m and natural ironstone is now suggested along the Sibford Road frontage and other key locations within the development.

#### **Landscape Impact and Visual Amenity**

- 5.16 The site lies beyond the built-up limits of the village in an area of open countryside. Policy C7 of the adopted Cherwell Local Plan seeks to resist development if it would result in demonstrable harm to the topography and character of the landscape and the explanatory text states that tight control should be exercised over all development proposals in the countryside if the character is to be retained and enhanced. The site is within an area designated locally as being of High Landscape Value and an assessment of the proposal must therefore be made under Policy C13 of the adopted Cherwell Local Plan which seeks to conserve and enhance such areas. Careful consideration of the scale and type of development is necessary to protect the character of the designated areas. Policy EN34 of the Non-Statutory Cherwell Local Plan seeks to conserve and enhance the character and appearance of the landscape although the formal designation relating to the Area of High Landscape Value has been removed. This does not mean however that landscape quality is no longer

**important. The landscape significance of these areas is carried through in the Submission Local Plan through Policy ESD13 which seeks to conserve and enhance the distinctive and highly valued local character of the entire district. The NPPF also advises that the open countryside should be protected for its own sake.**

Paragraph 113 of the NPPF states that Local Planning Authorities should set criteria based policies against which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. Distinctions should be made between the hierarchy of internal, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution they make to wider ecological works.

Paragraph 115 advises that great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and areas of Outstanding natural Beauty which have the highest status protection in relation to landscape and scenic beauty. The site does not lie in any nationally designated landscape, such as a National park or Area of Outstanding Beauty (AONB) but it does lie within an area designated locally as an 'Area of High Landscape Value'. There are no Tree Preservation Orders on or adjacent to the site.

The application is accompanied by a Landscape and Visual Impact Appraisal which has been prepared based on the 'Guidelines for Landscape and Visual Impact Assessment published by the Landscape institute of Environmental Management and Assessment 2013. It has been reviewed by the Council's Landscape Officer who considers it to be a fair assessment of the likely impact of the development, although the assessment was carried out in summer when screening is at its best. However, the impacts will not be greatly increased in winter as they are generally low in the first place. The report concludes that the landscape effects and visual effects of the proposed development are unlikely to have any significant adverse effect on area.

In terms of the characteristics of the site, it is physically constrained to all boundaries of the site by existing hedgerows and trees. Being an open agricultural field bounded by trees and hedges this is not uncharacteristic of this landscape area and not of such rarity and scenic quality to indicate a landscape of more than local value. There are no public rights of way across the site.

A number of viewpoints have been reviewed by the LVIA which have been taken from nearby settlements and residential properties, public rights of way and road network as well as recreational areas. Views from various points within the immediate vicinity of the site along the Sibford Road and the public right of way opposite which demonstrate that views into the site are limited and generally screened by the existing vegetation. In terms of more long distance views from the wider landscape and open countryside, the appraisal concludes that whilst the site and Redlands Farm are glimpsed from higher ground, the site is largely screened by intervening vegetation and the existing trees and hedgerows around the site and seen against the backdrop of the existing village.

It is accepted that the development proposed by virtue of its nature, being the development of a green field site beyond the existing built up limits of the village into open countryside will result in localised harm within the immediate vicinity of the site, and the introduction of houses, access roads and associated domestic paraphernalia onto the site would have an urbanising effect. However the visibility of the site within the wider area is restricted by intervening vegetation built development and topography. The proposal is therefore unlikely to adversely impact on the Area of High Landscape value or the adjacent Cotswolds AONB. Having regard to the above and the Landscape Officers comments, it is considered that the development proposed, which would be predominantly two storeys would not appear unduly prominent or obtrusive and therefore the visual impact of the development would not