

Mr Bob Neville  
Senior Planning Officer  
Development Management  
Cherwell District Council  
Bodicote House  
Bodicote  
Banbury  
Oxfordshire  
OX15 4AA

1<sup>st</sup> April 2019

Our ref:  
DAV001/VO

Your ref:  
18/01894/OUT

By email & post

Dear Mr Neville,

**Outline planning application with all matters reserved for up to 25 dwellings with associated open space, parking and sustainable drainage - OS Parcel 4300, North of Shortlands And South of High Rock, Hook Norton Road, Sibford Ferris (Application No. 18/01894/OUT)**

We write in connection with the above outline planning application on behalf of our clients, the Sibford Action Group. As you will recall, we submitted a letter to the Council, dated 30<sup>th</sup> November 2018, which outlined the Group's strong objections to the planning application. As you know, our clients are a group of local residents and professionals, who have co-ordinated the community's response to this proposal due to their serious concerns about the likely impact of the proposal upon the Sibfords and the quality of life in the two villages.

We will not repeat the clear reasons, set out in our previous letter, as to why we consider the proposed development is wholly unacceptable and should be refused by the Council as being contrary to the Development Plan, in line with Section 38(6) of the *Planning & Compulsory Purchase Act 2004 (as amended)*.

We do not consider that the additional and amended information submitted by the applicants goes any way towards overcoming our client's and residents' substantial concerns about several issues relating to the proposal development. Therefore, the situation is substantially unchanged except for certain matters (see below), which reinforce the justification, in our view, for a clear refusal of the application for the reasons set out in this and our previous letter.

We now understand from your correspondence with Sibford Ferris Parish Council that you intend to recommend approval of the application to the Planning Committee meeting to be held on 18<sup>th</sup> April 2019. We are surprised and disappointed that you have decided to recommend approval, considering that we were led to believe the archaeology works, discussed below, were required prior to the determination of the application. The outcome of such works is uncertain and unknown at present. The remainder of the letter explains the further clear reasons why there could, and still should, be a recommendation of refusal in our view.

**DAVID LOCK ASSOCIATES LIMITED**  
50 North Thirteenth Street  
Central Milton Keynes  
Buckinghamshire  
MK9 3BP

☎ +44 (0) 1908 666276  
✉ mail@davidlock.com  
💻 www.davidlock.com

VAT Reg. No. 486 0599 05.  
Registered in England No. 2422692.  
Registered Office as above.

## Archaeology

As you have discussed with my colleague Victoria Owen (Assistant Planner) on numerous occasions, there are fundamental archaeological issues with the application that have still yet to be resolved. The archaeological issues were outlined by Oxfordshire County Council's (OCC) Archaeologist, Richard Oram, in his comments dated 22<sup>nd</sup> November 2018. As detailed in the response, the County's Archaeologist recommends that ***"prior to the determination of this application the applicant should [therefore] be responsible for the implementation of an archaeological field evaluation"***. The timeline to undertake the archaeological field evaluation was detailed in the "extension of time" agreement email chain, uploaded to the Cherwell District Council Planning Application Portal on 31<sup>st</sup> January 2019.

There is no record of the Written Scheme of Investigation (WSI), submitted by the applicants to the County's Archaeologist, having been approved and the works implemented as yet. You confirmed to us on Wednesday 20<sup>th</sup> April 2019 that the WSI had not yet been approved by the County Council. Considering that your report to the Council's Planning Committee and recommendation is due on Thursday 4<sup>th</sup> April 2019, it seems highly unlikely that the County Council's requirements will be met before this date. On this basis, we do not see how the planning application can be recommended for approval by the Planning Committee with such a substantial unresolved issue. In light of advice in the *National Planning Policy Framework* and the requirements of Policy ESD15 of the adopted Cherwell Local Plan Part 1, we consider it is not possible for the Council to fully and properly assess the impact of the proposal on this potential heritage asset so as to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

## Fringford Appeal

There has also been a significant change in planning circumstances and material considerations since the application was submitted and since our previous representations. This is the appeal decision at Fringford Cottage, Main Street, Fringford OX27 8DP (Appeal Ref: APP/C3105/W/18/3204920) issued on 24<sup>th</sup> January 2019. We have included the appeal decision as Appendix 1 to this letter.

The appeal is very pertinent as it relates to a Category A village and the Inspector comments on relevant planning policy and other considerations relating to Policy Villages 1 and Policy Villages 2 in the Cherwell Local Plan Part 1. Importantly, this appeal was also brought to the attention of Members of the Planning Committee at its meeting on 14<sup>th</sup> March 2019. Your colleague, Paul Seckington, summarised the appeal as being dismissed on the grounds that the proposed scheme for 10 no. dwellings was inappropriate for Fringford, as it was an unsustainable location, with limited services/facilities and little public transport. Hence, it was not a suitable site for development in relation to both Policy Villages 1 and 2. There were other reasons outlined, but Mr Seckington emphasised that the principal reason why the development was refused (by the Council) and dismissed on appeal was due to the 10 no. dwellings proposed being inappropriate development due to the limited size, amenities and unsustainability of the village.

Cllr Mike Kerford-Byrnes asked a pertinent question at the previous Planning Committee meeting, which was whether this decision could affect decisions that might be made in respect of other Category A villages, as Fringford is a relatively small village and there are probably 4 or 5 of them which fall into this Category. Mr Seckington confirmed that the decision would be a material consideration and further stated:

*"But if you can say that this particular village is similar to that village in terms of the level of amenity and the Inspector found that site to be unsuitable, then you'd have to say the same thing about that potential village as well, in terms of that application."*

It is clear that Sibford Ferris is one of the "4 or 5 of them [villages]" that shares similar, unsustainable characteristics with Fringford. Extracts of the *Village Categorisation Update* (2014) for Fringford and Sibford Ferris (and Sibford Gower, as they are categorised together as a Category A Village in the Local Plan Part 1), are included as Appendix 2 to this letter. As outlined in our first letter, the food shop in Sibford Ferris - although a very useful facility - is not capable of operating as more than a small, local convenience store. This would result in villagers driving to nearby settlements for a supermarket, other shops and most services for most of their shopping and related needs.

The small convenience store does have a Post Office, there is a GP Surgery in Burdrop and a public house in Sibford Gower. However, as we stated previously, it is unlikely that residents of the proposed development will walk between the villages due to the lack of continuous public footpaths, distance and topography. Hence, there will be a greater propensity for residents to use private vehicles and drive to facilities and/or other villages and towns for their retail and other needs.

In addition, since the Village Categorisation Update in 2014, the bus service has reduced from a service that would enable transport to Oxford, to a service just between Stratford-upon-Avon and Banbury via the 3A bus service operated by Johnson's Excelbus. The number of bus services has also reduced since 2014, with fourteen services each day (Monday to Friday) previously, reduced now to just 5 services per day to Banbury and 4 services to Stratford-upon-Avon (Mon-Fr) and 4 services each way on a Saturday; there are no services on a Sunday. The Inspector paid particular regard to the reduction in bus services in the Fringford appeal decision and this is yet another similarity between Fringford and Sibford Ferris.

The Inspector, Jon Hockley, considered that the future residents from the proposal would use private transport for most of their day to day needs, as will also occur in Sibford Ferris. The Inspector also attributed weight to the harm to the character and appearance of the area that would occur due to the development, the poor integration of the development with the village form and the impact on views from nearby public footpaths. This was for a smaller scheme, but the issues listed here are all shared with the proposed development at Sibford Ferris; as amplified in our earlier letter of objection.

In respect of Policy Villages 1, the Inspector concluded:

*"I am not convinced therefore that, while noting the size of the scheme compared to the size of the village overall, given the level of service provision in the village, particularly when coupled with the harm that I have identified above that the scheme would cause to the character and form of the village, that the proposal would constitute 'minor development' in the context of Fringford and therefore consider that the scheme would be contrary to Policy Villages 1."*

In addition, the Inspector considered the development in relation to the criteria outlined in Policy Villages 2, which we assessed the Sibford Ferris development against in our previous letter and found the proposal to be unacceptable on most, if not all, of the Policy criteria. The Inspector concluded that the development would not contribute to enhancing the built environment nor would be well-located in relation to service and facilities and so was contrary to Policy Villages 2.

Therefore, in conclusion on this matter, we consider that the Fringford appeal decision provides further strong justification for refusing this proposal. Whilst there are some differences (e.g. actual number of facilities) there are many similarities between the two. The Inspector concluded on the Fringford decision that:

*"overall the proposed development would not provide a suitable site for housing and would be contrary to the development plan. Material considerations advanced do not lead me to an alternative decision and the scheme would also be contrary to the Framework."*

For similar reasons and consistency, we would request that you conclude the same on the current application, due to the proposal being unsuitable, harmful, unsustainable and contrary to the Development Plan and other material considerations (including the National Planning Policy Framework).

### **Housing Supply**

The Inspector on the Fringford appeal noted that the Council has an adequate housing land supply, which is borne out by the figures in the Council's *Annual Monitoring Report, 2018 (AMR)*. The Ministerial Statement in relation to the Oxfordshire Growth Deal only requires a 3-year supply and the Council has well in excess of this, according to the AMR.

The key points of the AMR are:

- There was headroom (at the time) in permissions of just 4 out of the circa 750 homes to be built under Policy Villages 2;
- 65 dwellings were completed in respect of Policy Villages 2 in 2017/18;

- A total of 168 dwellings have been built out of circa 750 dwellings which is 22.4% of total;
- With 12 years to go to 2031 (the end of the Plan period) that is just 48 per year, which is similar to the 750 new home Plan requirement over period of 2014-2031;
- So, if the current average rate is maintained, the target will be hit; at 65 per year (as in 2017/18) the target will be hit in 8.5 years.

Hence, we conclude that there is absolutely no need to permit more at this stage. Our clients have also reviewed the AMR in more detail and the progress with the delivery of various sites post the AMR to provide an up-to-date picture. This has been supplied separately to the Council but reinforces the fact that there is no need to approve more dwellings in Category A villages and particularly not at Sibford Ferris.

To put this in perspective, 25 dwellings at Sibford Ferris, if built in one year (as likely) would represent over half of one year's total in just one village. There are 23 Category A villages or 24 if one splits Sibford Ferris and Gower so this would not only be unnecessary but also a disproportionate and unbalanced distribution of development across the district.

### **Strength of Objection**

As Paul Seckington outlined at the Planning Committee meeting in March 2019 that the application has proved controversial in the locality and this is clearly demonstrated by the eighty-four objections submitted against the application. In addition, the Sibford Action Group, our clients, are a group comprised of significant numbers of local people. The Parish Council also strongly objects to the proposal.

### **Conclusion**

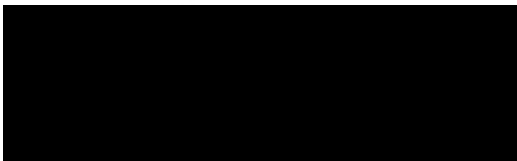
In conclusion, for all the reasons outlined in this letter and our previous letter (dated 30<sup>th</sup> November 2018), the proposed development remains wholly unacceptable and should be refused by the Council pursuant to Section 38(6) of the *Planning & Compulsory Purchase Act, 2004 (as amended)*, as it is not in accordance with the Development Plan and a refusal is supported by other material considerations, including the National Planning Policy Framework and the recent appeal decision at Fringford, where planning circumstances are similar.

We were disappointed to learn that you intend to recommend approval of the application when presented to the Planning Committee. Not least because the archaeology schedule of further works has not been completed, but also due to the fact the Fringford appeal decision is very comparable to the situation in Sibford Ferris. In addition, the Annual Monitoring Report clearly demonstrates there is no need for housing in Category A villages and certainly not in Sibford Ferris.

We would therefore request again that you/the Council take these strong objections into account before completing your report and making your recommendation to the Planning Committee on 18<sup>th</sup> April 2019. We still respectfully request that the application should be recommended for refusal and rejected by the Planning Committee for all of the reasons set out.

If you require any further information or wish to discuss any of the issues raised, please do not hesitate to contact myself, or my colleague, Victoria Owen.

Yours sincerely,



Duncan Chadwick  
Partner

Email: [dchadwick@davidlock.com](mailto:dchadwick@davidlock.com)

Appendix 1 – Fringford Appeal Decision



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## Appeal Decision

Site visit made on 6 November 2018

**by Jonathan Hockley BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 24<sup>th</sup> January 2019**

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**Appeal Ref: APP/C3105/W/18/3204920**

**Fringford Cottage, Main Street, Fringford OX27 8DP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Stuart Wright against the decision of Cherwell District Council.
  - The application Ref 18/00249/OUT, dated 6 February 2018, was refused by notice dated 16 April 2018.
  - The development proposed is a residential development of up to 10 dwellings.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application was submitted in outline with all matters reserved aside from access. I have treated the appeal in the same manner, and have thus treated all plans submitted as indicative, except those relating to access.

### Main Issue

3. The main issue in this case is whether the proposed development would provide a suitable site for housing, having regard to the character and appearance of the area including the setting of nearby listed buildings, the proximity of services, and the effect of the scheme on the living conditions of the occupiers of Bakery Cottage.

### Reasons

4. Fringford is a fairly small village based upon Main Street and the roads leading off this street. The SPD<sup>1</sup> states that the village has a dispersed settlement pattern. However, dispersed settlements are cited as having a large open space at their centre, whereas in Fringford's case the southern end of the village is characterised by a large village green sited opposite the settlement's primary school, with the rest of the village having more of a linear pattern, based around Main Street/The Green. This street is largely lined with housing of varying ages, although development is more sporadic on its south east side than its north west side, with numerous side roads and cul-de-sacs fed off this side of the street. In this development pattern St Michael's Close, which lies to the north of the appeal site appears as somewhat of an anomaly, being one of the few streets accessed to the south of Main Street.

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<sup>1</sup> Cherwell Residential Design Guide Supplementary Planning Document, July 2018

5. The roughly rectangular appeal site lies on the south east side of the street and mainly consists of a fairly large field/paddock set to the rear of Fringford Cottage, and would be accessed by an improved existing drive set to the side of this property, currently used to access the rear of the house and outbuildings.
6. On the other side of the access lies the northern side of Bakery Cottage. This cottage is part of a row of four properties which seemingly consists of 2 central one and a half storey thatched properties bookended by 2 two-storey tile roofed houses. Bakery Cottage is one such end property. The structure is a Grade II listed building, with, from the listing description, the central thatched elements of the whole building being listed. To the rear the houses have relatively shallow areas for sitting out in, opening out into a more open area which has the character of an orchard at its end and appeared to have partly communal access to the properties.
7. The proposal would provide up to 10 dwellings, with the indicative layout detailing how these could be accommodated within the site. The rear of the site would appear to project slightly further to the south east than the existing rear line of development from St Michael's Close. To the south west, while the top of the site would fall in a rough line from the rear of the orchard type land to the rear of Bakery Cottage and its attached neighbours, the majority of the site would border open fields. The south east end of the site borders further fields/paddocks, and a footpath runs along the north east side of the site.
8. The proposal would introduce a reasonably substantial new housing scheme into an area of the village which has remained free of development, and would push the visual envelope of the settlement across from the rear of St Michael's Close towards the south west. In this context I do not agree that physically it would tie in with St Michael's Close rounding off this part of the village; to my mind St Michael's Close is something of an anomaly in terms of the development of the village and the proposal would accentuate this anomalous effect, however the detailed design was considered. Such an effect would be clearly visible from reasonably substantial stretches of the nearby public footpath, where the scheme would mask the current views of the linear development to the rear of Main Street that predominates in this area of the village to the south west of St Michael's Close, and would appear poorly integrated with the village form, causing harm to the character and appearance of the area.
9. The appellant has submitted a Landscape and Visual Assessment, which considers the impact of the proposal on the adjacent footpath, stating that the value of viewpoints along the footpath is high and medium depending on location but that users of the footpath would be viewing the site in a transitory way while they focus on the route ahead. However, the speed of transition on a rural footpath would be slow and given the extent of views that can and would be possible of the site I consider that the scheme would clearly alter the perception of the village form and development pattern from such viewpoints. I also do not consider that such harm would be mitigated by landscaping, which would take time to establish and would do little to change or mask the form of the proposal compared to the areas to the south.
10. Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires that when considering whether to grant planning permission for

development which affects the setting of a listed building, special regard should be had to the desirability of preserving its setting.

11. Paragraph 193 of the National Planning Policy Framework (the Framework) says when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Significance can be harmed or lost through alteration or destruction of a heritage asset, or by development within its setting. The Framework defines setting as the surroundings in which the asset is experienced. Elements of setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance, or may be neutral.
12. I note details of a consent granted to the rear of Bakery Cottage for a 2 storey extension. However, be that as it may, and despite other alterations to the rear of the 4 cottages, part of the character of the listed building derives from its rural setting, including the orchard type rear garden and parts of the surrounding farmland in proximity to the building, including the appeal site, despite its distance in parts from the actual built structure of the listed building. Such areas all fall within the surroundings of the heritage asset in which it is experienced and thus fall within the setting of the listed building.
13. For the reasons given above the development of the site would have an adverse effect, changing and altering an element of the setting of the heritage asset from a rural to a suburban one. However, given that the development would only occupy a proportion of the setting of the heritage asset and no harm would be caused to the historic fabric of the listed building, such harm would be less than substantial.
14. Concern is raised over the effect of the scheme upon the living conditions of a neighbouring resident. The proposal would result in the existing access serving Fringford Cottage being improved and the residents of the additional proposed 10 houses using it to access their properties, in fairly close proximity to Bakery Cottage. I noted on my site visit the peaceful sitting out area to the rear of this Cottage, which is located next to a fairly high wall marking the boundary between the two properties. This boundary is largely supplemented by evergreen trees.
15. The width of the access is such that space can be left between the side of the access road and the boundary wall, allowing for more substantial landscaping to be planted, and supplemented with an acoustic fence as suggested by the appellant. The amount of traffic generated by 10 residential properties would not be substantial, and I do not consider that harm caused by the proposal in this regard, with the benefit of suitable conditions for mitigation, would be substantial.
16. Policy Villages 1 of the Local Plan<sup>2</sup> designates Fringford as a 'service village' where minor development, infilling and conversions are permissible. Supporting text to the policy states that infilling refers to the development of a small gap in an otherwise continuous built-up frontage. Under such a definition the proposal would not constitute infilling. Further supporting text states that in assessing whether proposals constitute acceptable 'minor development',

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<sup>2</sup> The Cherwell Local Plan 2011-2031, Part 1, Adopted July 2015.



- regard will be given to the size of the village and the level of service provision, the site's context within the existing built environment, whether it is in keeping with the character and form of the village, its local landscape setting and careful consideration of the appropriate scale of development.
17. Evidence is submitted of the facilities within the settlement. These mainly consist of the primary and pre-school, public house, church and village hall. While therefore some services are present within the village these are by no means comprehensive. Furthermore, there is mixed evidence concerning bus services to and from the village, with regular bus services only taking place on a Thursday and possibly a Friday, supplemented by a demand responsive bus. The Thursday service only appears to include 1 journey each way and the demand responsive option only runs between the hours of 10:15 and 14:30.
  18. Aside from the school and the pub therefore I consider that the future residents of the proposal would use private transport for most of their day to day needs. I also note in the context of policy Villages 1 that the bus service as it exists today represents a downgrade on a previous service that existed at the time of the adoption of the local plan, and do not consider that the provision of a travel pack to future residents would mitigate the lack of a regular scheduled bus service. While acknowledging that sustainable transport options vary from urban to rural areas I do not consider therefore that the proposed 10 houses would be located within an area with sufficient service provision.
  19. I am not convinced therefore that, while noting the size of the scheme compared to the size of the village overall, given the level of service provision in the village, particularly when coupled with the harm that I have identified above that the scheme would cause to the character and form of the village, that the proposal would constitute 'minor development' in the context of Fringford and therefore consider that the scheme would be contrary to policy Villages 1.
  20. Policy Villages 2 allocates 750 dwellings across service villages during the plan period, but does not state how such houses will be distributed across the various settlements. In identifying sites for such provision, particular regard will be given to various criteria, including whether the land has been previously developed or is of lesser environmental value, whether development would contribute in enhancing the built environment, and whether the site is well located to services and facilities. There is disagreement between the parties over the proportion of the site which would constitute previously developed land. However, notwithstanding this point, given my views above over the sites conflict with policy Villages 1 and that the development would not contribute to enhancing the built environment or would be well located to service and facilities then I am of the view that the proposal would also be contrary to policy Villages 2.
  21. Policy ESD 1 of the Local Plan states that measures will be taken to mitigate the impact of development within the District on climate change, including by distributing growth to the most sustainable locations as defined in the Plan and delivering development that seeks to reduce the need to travel and which encourages sustainable travel options. While the proposal would be located in the most sustainable location as defined in the Local Plan the weight I provide to this is reduced by the bus service reduction since the local plan was adopted and the development would not reduce the need to travel or encourage

- sustainable travel options. In the round I therefore consider that the proposal would also be contrary to this policy.
22. Policies ESD13 and ESD15 of the Local Plan are also cited in the decision notice. While I do not consider that the scheme would be contrary to the element of policy ESD15 which states that development proposals should consider the amenity of existing development, I am of the view that the proposal would be contrary to other parts of policy ESD15 as well as to ESD13, which together state that proposals will not be permitted if they would be inconsistent with local character or harm the setting of settlements, buildings or structures, and should conserve, sustain and enhance designated heritage assets.
23. The scheme would create 10 new properties, which would provide economic and social benefits for the local area in terms of both the construction of the houses and also the activities of the future residents of the dwellings, as well as through the New Homes Bonus. However, such public benefits in an area where both parties agree does not have a lack of housing supply would not outweigh the less than substantial harm that would be caused to the significance of the nearby listed building, to which I am required to give great weight to, and the proposal would therefore be contrary to the Framework.
24. I therefore conclude that while the proposed development would not have an adverse effect on the living conditions of the occupiers of Bakery Cottage, it would not provide a suitable site for housing, having regard to the character and appearance of the area including the setting of nearby listed buildings and the proximity of services. The proposal would be contrary to policies Villages 1, Villages 2, ESD1, ESD13 and ESD15 of the Local Plan, as well as to the Framework.
25. The appellant refers me to a Council Housing and Economic Land Availability Assessment (HELAA) which considered that the site could accommodate 14 dwellings, and notes that as part of this process the site was visited by Council planning officers to appraise. Planning Practice Guidance states that the use of a HELAA can be to inform assessments of housing land supply and that it is an important evidence source to inform plan making but does not in itself determine whether a site should be allocated for development; it is the role of the HELAA to provide information on the range of sites which are available to meet need but it is for the development plan to determine which of the sites are the most suitable to meet those needs. Above I have considered that the proposal would be contrary to the development plan, and while I provide moderate weight to the HELAA this does not outweigh such conflict.

#### *Other matters*

26. The decision notice contained two reasons for refusal relating to drainage and the lack of a planning obligation. During the course of the appeal both matters have been resolved between the parties and a completed unilateral undertaking, agreeable to the Council, has been submitted by the appellant. Based on all that I have seen and read I have no reason to disagree with the main parties views on the drainage strategy for the site. In terms of the unilateral undertaking, while I note that it provides for off-site open space and play area contributions, as well as a footpath contribution, given that I am dismissing the appeal on other grounds I have not considered this matter further.

## **Conclusion**

27. I have concluded that overall the proposed development would not provide a suitable site for housing and would be contrary to the development plan. Material considerations advanced do not lead me to an alternative decision and the scheme would also be contrary to the Framework.
28. Therefore, for the reasons given above, and having regard to any other matter raised, I conclude that the appeal should be dismissed.

*Jon Hockley*

INSPECTOR

Richborough Estates

Appendix 2 – Village Categorisation Update (2014)

Village Survey Results 2014									
Village Name	Nursery	Primary School	Retail Service Outlet	Food Shop	Post Office	Public House	Recreational Facilities	Village/Community Hall	Other Services
Sibford Ferris	0	0	0	√	√	0	√	0	0
Sibford Gower	√	√	0	0	0	√	√	√	GP Surgery in Burdrop
Fringford	√	√	√	0	0	√	√	√	0