

Jack Barn
West End
Launton
Bicester
OX26 5DG

16/01598/F

Case Officer: Michelle Jarvis **Ward(s):** Launton and Otmoor

Applicant: Mr Howson

Ward Member(s): Cllr Tim Hallchurch
Cllr Simon Holland
Cllr David Hughes

Proposal: Demolition of development at Jack's Barn and the erection of ten dwellings.

Committee Date: 15 December 2016 **Recommendation:** Refusal

Reason for Referral: Major development

1. APPLICATION SITE AND LOCALITY

- 1.1 This application relates to a site located at the southern end of West End, Launton. A store/workshop which was restricted to a mixed agricultural and equestrian use already occupies part of the proposed site, along with some ancillary buildings. This was given planning permission in 2010 (ref 10/00021/F). The applicant runs a metal fabrication business from within this unit in contravention of an enforcement notice (ref 12/00113/EBCON) which was upheld at appeal (the Council is currently in the process of pursuing a prosecution). Within the applicant's ownership is also an open agricultural field to the south which contains a stable building in the south-eastern corner of the site.
- 1.2 There is an existing access to the workshop from West End which runs along the boundary of number 70 West End and also a new dwelling recently constructed in the garden of 66 West End. The access then widens into an existing yard associated with the workshop building. A separate track provides access to the existing stable building.
- 1.3 The site is enclosed by hedgerows along the eastern, southern and western boundaries. There is a Public Footpath (272/3/10) which passes close to the east of the site and views can be glimpsed through the existing vegetation.
- 1.4 West End itself is characterised by a mix of housing types, comprising of traditional cottages infilled with modern developments, which are mainly in the form of small cul de sacs.
- 1.5 The Chiltern mainline railway runs some 150 metres to the south of the site.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1 Full planning permission is sought for the demolition of the existing building and the erection of ten new dwellings on the site, including on part of the paddock land to the south. The

proposed development site occupies some 0.7ha of land. The application proposes the removal of the existing building (subject to enforcement action) and would also result in the reduction in size of the adjacent paddock land to the south-eastern side of the existing barn known locally as “Jacks Field”.

2.2 The applicant is proposing a development of mixed tenure including:

- 4x two storey, two bedroom cottages
- 3x two storey, three bedroom houses
- 3x two and half storey, four bedroom houses

Each property will benefit from gardens and also off-road parking.

2.3 Currently access into the site is taken from an existing road which runs from an entrance on West End along the north-east boundary of the site. This application seeks to amend the access arrangements and provide a new access road suitable for adoption, which will be a no-through road culminating in a square which provides a turning area in the north-west corner of the site.

2.4 In addition, a further private drive is proposed some distance from the entrance from West End which forks off to the west of the site and provides access to the larger plots.

2.5 The dwellings would be arranged in a roughly linear fashion along the access road, but with no clear principal frontage. An area of play is proposed at the south-eastern corner of the site, at the entrance off West End.

2.6 The application was due to be determined by 11 November 2016. No extension of time has been agreed with the applicant, and the applicant has chosen to exercise their right to appeal against non-determination. As such Cherwell Council is no longer the determining authority in this case, and Planning Committee is being asked to resolve how it would have determined the application, as this will form the basis of the Council’s case in the appeal.

3. RELEVANT PLANNING HISTORY

<u>App Ref</u>	<u>Description</u>	<u>Status</u>
10/00021/F	Erection of store/workshop on existing hard-standing.	Permitted
15/00392/OUT	OUTLINE - Erection of 8 No detached houses; creation of informal open space	Refused
15/02006/OUT	OUTLINE - Erection of two detached dwellings with garages	Refused
16/00657/OUT	Erection of 2 No dwellings - re-submission of 15/02006/OUT	Refused (Appeal currently underway relating to this)

4. RESPONSE TO PUBLICITY

4.1 The application was publicised by way of neighbour notification letters and a notice displayed near to the site. The comments raised by third parties are summarised as follows:

- Five letters supporting the application from the neighbours of the site and also the Black Bull PH. The comments are summarised as follows:

- A suitable site for development
- The number of dwellings will not affect highway safety
- The new houses will bring an increase in business to the pub
- The proposal includes smaller houses which are in short supply in the village
- The dwellings are designed to be older style
- The development will give a better edge to the village
- There is a good mixture of house types proposed
- An attractive and well thought out scheme

- Four letters objecting the application raising the following issues:

- Extend the village limits
- Unacceptable use of agricultural land
- Increase in traffic
- Implications on sewage and water
- Current Enforcement Notice on the land
- The buffer zone to Bicester would be taken away - and the development lies outside the village boundary
- The proposed development is completely out of character with the cluster of old cottages, which are very much in keeping with their surroundings.
- Most of these cottages do not have any gardens and their amenities would be adversely affected by loss of all privacy, noise and disturbance by increased traffic (at least 20 cars) next to their front door, partial overshadowing (also by planned landscaping), loss of light, distance and a feeling of space.
- We have had 2 very recent major developments of mainly large houses in Launton - no affordable houses in sight in the present proposal.
- The layout of the development, and especially position of the landscaping, ignores that the natural landscape is being ruined and spoilt.
- The proposed playground nearest to the traffic fumes and in the wettest, darkest corner is utterly misplaced.
- Traffic is already at its upper limit in West End, at the crossroads and in the whole of Launton. The proposal would add to highway safety issues in the area.
- Flooding: The field may not be a designated floodplain, but where are the "local water courses" into which surface drainage would go? After three minutes of a downpour the whole turn-around area of West End was flooded more than one inch deep (sat. 21/6/2015). The field is a natural and valuable soak-away.
- Set a precedent for more development

4.2 The comments received can be viewed in full on the Council's website, via the online Planning Register.

5. RESPONSE TO CONSULTATION

- 5.1 Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.
- 5.2 LAUNTON PARISH COUNCIL: **Object** to the application on the grounds that *"the ten houses proposed would go beyond the built up limits of the village and extends the urban boundary"*.

CHERWELL DISTRICT COUNCIL

- 5.3 PLANNING POLICY MANAGER: There is no objection to the principle of residential development in Launton as it is a Category A village. However, development of this site would extend the built up limits of Launton in a westerly direction which would lead to incremental coalescence with Bicester. This would harm the village's identity and character. Detailed consideration of the impact on the countryside, the existing settlement pattern, and the justification for a lower density development is also required.
- 5.4 DESIGN AND CONSERVATION OFFICER: Formal comments still awaited
- 5.5 BUSINESS SUPPORT MANAGER: It is estimated that this development has the potential to attract New Homes Bonus of £74,564.64 over 6 years under current arrangements for the Council.
- 5.6 LANDSCAPE OFFICER: **Objection** to the lack of LAP provision on the site. In terms of the landscape impact, considers that this is negligible and could be dealt with by condition.
- 5.7 ARBORICULTURAL OFFICER: Has requested the addition of a tree survey before he can provide comments.
- 5.8 ENVIRONMENTAL PROTECTION OFFICER: I have **no objections** to this application but would ask for conditions to be imposed to safeguard against the risk of land contamination because of the current use on-site.
- 5.9 HOUSING OFFICER: **no objections**.
- 5.10 WASTE & RECYCLING: No comments received.

OXFORDSHIRE COUNTY COUNCIL

- 5.11 TRANSPORT: **Objection**. A drawing of the site access onto West End showing layout, visibility splays (as calculated using Manual for Streets) and large vehicle tracking has not been submitted with the application.

There is a stretch of West End northwards from the site access for about 40m where there is no footway provision. The applicant has made no reference to this and it has not been demonstrated how pedestrians can be accommodated safely on the highway from the site access to the existing footway provision.

As such, it has not been demonstrated that safe and suitable access can be provided to/from the site for all users.

N.B: An amended plan has been submitted which shows vehicle tracking within the site. This has been forwarded to OCC Transport for comment, and any additional comments received will be reported in the written updates.

5.12 EDUCATION: Approval subject to contributions to mitigate the impact of the additional demand placed by the development on local primary school facilities, secured through a Section 106 Agreement

5.13 RIGHTS OF WAY OFFICER: No comments received.

OTHER EXTERNAL CONSULTTEES:

5.14 BUCKINGHAMSHIRE BERKSHIRE OXFORDSHIRE WILDLIFE TRUST (BBOWT): No comments to date

5.15 THAMES WATER: No objections subject to conditions and an informative

6. RELEVANT NATIONAL AND LOCAL PLANNING POLICY AND GUIDANCE

6.1 DEVELOPMENT PLAN POLICIES

The Cherwell Local Plan 2011-2031 Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the Development Plan. Planning legislation requires planning decisions to be made in accordance with the Development Plan unless material planning considerations indicate otherwise. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

Cherwell Local Plan 2011-2031 Part 1:

Policy PSD 1	Presumption in favour of sustainable development
Policy BSC 1	District Wide Housing Distribution
Policy BSC 2	The Effective and Efficient Use of Land – Brownfield land and Housing Density
Policy BSC 3	Affordable Housing
Policy BSC 4	Housing Mix
Policy BSC 10	Open Space, Outdoor sport and Recreation Provision
Policy BSC 11	Local Standards of Provision-Outdoor Recreation
Policy ESD1	Mitigating and Adapting to Climate Change
Policy ESD 13	Local Landscape protection and enhancement
Policy ESD 15	The Character of the built and historic environment
Policy Villages 1	Village categorisation
Policy Villages 2	Distributing growth across rural areas
Policy SLE1	Loss of employment site
Policy INF 1	Infrastructure

Cherwell Local Plan 1996 (Saved Policies)

Policy H18	New dwellings in the countryside
Policy C8	Sporadic Development in the Open Countryside
Policy C15	Prevention of coalescence of settlements
Policy C28	Layout, design and external appearance of new development

Policy C30	Design of new residential development
Policy ENV1	Noise
Policy ENV12	Contamination

6.2 OTHER MATERIAL PLANNING CONSIDERATIONS:

National Planning Policy Framework (The Framework) - National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied.

Planning Practice Guidance (NPPG) – This sets out regularly updated guidance from central Government to provide assistance in interpreting national planning policy and relevant legislation.

Home extensions and alterations design guide (2007)

The Annual Monitoring Report 2015 (January 2016)

Strategic Housing Land Availability Assessment (SHLAA) Update 2014

7. **APPRAISAL**

7.1 Officers' consider the following matters to be relevant to the determination of this application:

- Principle of Development;
- Design, impact on the character of the area and landscape impact;
- Accessibility, Highway Safety, Parking and Impact on the Public Right of Way;
- Residential Amenity;
- Ecological Implications;
- Affordable housing, infrastructure and service impacts;
- Other material considerations

Principle of development

7.2 Paragraph 14 of the National Planning Policy Framework (NPPF) states that a presumption of sustainable development should be seen as a golden thread running through decision taking. There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.

7.3 Paragraph 12 of the NPPF notes that the development plan is the starting point of decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015.

7.4 The Council, as concluded in its latest Annual Monitoring Report published in December 2015, can demonstrate a five-year supply, and this has been tested and upheld at appeal. The presumption in favour of sustainable development, as advised by the NPPF, will therefore need to be applied in this context.

7.5 In the adopted Cherwell Local Plan 2011-2031 Part 1, Launton is designated a Category A village. This means that it is considered to be a village capable of taking some limited residential development in the form of minor development, infilling or conversions. The

application site is located beyond the built up limits of the settlement and this is therefore at odds with Policy Villages 1, which concerns development within the built limits. Notwithstanding this conclusion, Launton is identified as a potential location for accommodating some of the additional housing required in the District's rural areas and therefore Policy Villages 2 needs to be considered.

- 7.6 Policy Villages 2 states that sites for additional residential development at the Category A villages will be identified through the preparation of the Local Plan Part 2, through the preparation of Neighbourhood Plans where applicable, and through the determination of applications for planning permission. An Issues and Options paper for Local Plan Part 2 is currently scheduled to be presented to the Council's Executive at its meeting in January 2017. This policy does allow for development beyond the built-up limits of settlements however it is very clear that proposals will only be considered for 10 or more dwellings (i.e. it does not promote piecemeal development on the edge of settlements). It goes on to list criterion for considering whether specific proposals and sites are acceptable (page 250). Of particular relevance in relation to this application are the following points from that list:
- Whether the land has been previously development land or is of lesser environmental value;
 - Whether development would contribute in enhancing the built environment;
 - Whether significant adverse landscape impacts could be avoided;
 - Whether satisfactory vehicular and pedestrian access/egress could be provided;
 - Whether necessary infrastructure could be provided
- 7.7 The application site was considered as part of a larger site in the Strategic Housing Land Availability Assessment (SHLAA) update 2014. (Site reference LA025). It was concluded that *'the site was unsuitable for residential development as it is outside the built-up area within a rural area, and it is considered that encroachment of more of the village in a westerly direction would lead to incremental coalescence with Bicester to the detriment of the village's identity and character. The site also lies within a protected species buffer for Great Crested newts, and therefore development would have a detrimental impact to the local ecology.'*
- 7.8 Policy H18 of the Cherwell Local Plan 1996 is also of some relevance in this circumstance as well. This policy looks to resist new dwellings in the countryside outside of the built up limits of settlements unless certain criteria are met such as being essential for the purposes of agriculture and policy compliant in other respects.
- 7.9 The proposed new dwellings would result in the demolition of the store/workshop if approved. Therefore the proposal also stands to be considered against policy SLE 1 of the adopted Cherwell Local Plan 2011-2031 Part 1. This policy sees the Council, as a general principle, protecting existing employment land and buildings for employment uses. Whilst the on-going issues with the store/workshop are noted, the replacement of the building will still result in the loss of an employment use. However it is important to note that this is a single unit and is not part of any bigger employment site (employing the applicant and perhaps one other). The loss of this employment site would not have a material impact on the employment provision available in the District, and so should be given limited weight in the determination of this application.
- 7.10 The proposed development is not disproportionate with the amount of development that it is considered Launton, as a Category A village, could take, being the minimum amount to qualify for consideration under Policy Villages 2. Therefore it is difficult to justify resisting the development in general sustainability terms. However it is important to be mindful of the other issues and criteria of Policy Villages 2 (listed in para 7.6) which are also material

considerations in the determination of this application. Therefore, whilst the principle of developing 10 dwellings at Launton may be acceptable under Policy Villages 2, this is subject to other considerations as addressed in the following sections of this report.

Design, impact on the character of the area and landscape impact

- 7.11 Government guidance contained within the NPPF outlines that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Further, permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.
- 7.12 Paragraph 61 of the NPPF states ‘although visual appearance and the architecture of individual buildings are very important factors, securing high quality design goes beyond aesthetic considerations. Therefore planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment’.
- 7.13 Policy ESD15 of the Cherwell Local Plan Part 1 (CLP 2031) states that: *“New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards...New development proposals should:*
- *Contribute positively to an area’s character and identity by creating or reinforcing local distinctiveness and respecting local topography, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views...*
 - *Respect the traditional pattern routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly defined active public frontages.”*
- 7.14 Saved Policy C30 of the Cherwell Local Plan 1996 (CLP 1996) exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context.
- 7.15 Considering first the site’s relationship to existing development, the village of Launton is very diverse in terms of the age and style of the properties within it. West End exhibits this diversity with elements of old development as well as relatively new development. For example, the small cul-de-sac of nine dwellings, known as “West End Close”, to the east of the development site is a modern addition to the village. However the rural setting and character of the village has not been undermined by the more recent additions which are considered to fit comfortably with the more traditional settlement pattern. The character of the village is interlinked with the wider landscape which defines the edges of the village and reinforces the settlements linear form, with development lining the main routes with small groups of dwellings leading off these routes. The existing edge of the village at the application site is currently defined by housing which turns the corner from West End and lines the start of a track, bounded by black estate railings, to the industrial shed. The recent addition of the new bungalow (constructed as an infill site) closes the gap between the housing and industrial shed and reinforces the hard built edge to the village.

- 7.16 Given that the existing form of development in this part of the village has evolved in a very linear form, with small, contained cul-de-sac developments branching off from West End, down towards the proposed site, this development is not considered to integrate well into this existing built form. The layout as proposed is excessively deep, extending beyond the limits of built development along the north-west side of West End, and creates a new frontage perpendicular to West End. Furthermore it isolates itself from the existing development and creates an almost “private” estate on the edge of the village which has no ties at all back to the existing built form. The proposed development sits in isolation compared to the current development in West End. The area which is outlined for development is also a site which makes a significant contribution to the rural character and setting of this area, being a paddock in agricultural use. The proposed development would represent a harmful encroachment of development onto this open space.
- 7.17 Turning to the layout, the proposed layout can be broken down into two main elements. Firstly there is the removal of the existing industrial building and its replacement with four dwellings in a staggered terrace arrangement. Whilst the removal of the existing industrial building could be a benefit, it is considered that the addition of four terraced houses in this position is overdevelopment resulting in very cramped plots with no meaningful relationship with the street and appearing some detached from both existing and the remaining proposed development.
- 7.18 The second element of the layout relates to the additional housing proposed predominantly on the green field land to the south east of the existing industrial unit (known locally as Jack’s Field). Aside from the principal of the extension being beyond the village limits, the large scale, mostly detached (although it is noted there is one semi-detached) properties are out of keeping with much of the built form in the locality.
- 7.19 The massing of the buildings is considered to be over dominant and significantly out of scale with the more modest buildings both bordering the existing site and further along West End. The plot depth is much bigger than is traditionally found in the village and the layout as proposed does not reflect at all the historic settlement pattern of the village. The principal frontage appears to face south-west onto the remaining paddock, but this results in the development turning its back on the access road leading to the 4 terraced units, with Plot 10 (at the front of the site) separated from the rest of the development by the new access drive. Overall the layout appears disjointed and lacks coherence, and fails to reinforce or integrate with the existing pattern of development in the area.
- 7.20 Turning to detailed design matters, the dwellings as proposed include design features such as exposed chimneys, large porches and fenestration details which are not compatible with the existing built form of vernacular buildings in the village and are more representative of dwellings found in other more urban locations. Furthermore, there are concerns relating to the way in which the properties are proportioned. For example the three bed houses are shown very long and squat resulting in a disproportionately deep gable and shallow roof pitch. This is not typical of vernacular buildings in the village, and Plot 9 in particular would present a dominant and unattractive blank gable to the new access drive.
- 7.21 Overall the layout and design is considered to be of a very poor design. It is not a well thought out scheme with the different house types and styles appearing disjointed and incoherent. There is no strong frontage which is contrary to much of the front facing design

that exists in this part of the village. Furthermore, the design has created many inactive edges along one of the access routes to the houses. This is visually unattractive and adds to the isolated feeling of the development. The detailed design and proportions of the dwellings also fail to reinforce local distinctiveness.

7.22 Turning to matters relating to the landscape impact of the proposed development, Policy ESD13 of the Cherwell Local Plan Part 1 2011-2031 states that: "Development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not be permitted if they would:

- Cause undue visual intrusion into the open countryside;
- Cause undue harm to important natural landscape features and topography;
- Be inconsistent with local character;
- Harm the setting of settlements, buildings, structures or other landmark features;
- Harm the historic value of the landscape."

7.23 Policy ESD 15 of the adopted Cherwell Local Plan 2011-2031 states that new development proposals, amongst other things should: *'contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and respecting local topography and landscape features, including skylines, valley floors, significant trees, historic boundaries, landmark features or views..*

7.24 The Council's Landscape Officer considers that the impact of the development on the landscape surrounding the site is negligible and that a scheme for appropriate landscaping could be secured through a planning condition if necessary. As there are no trees within the site and the boundary of the site is to be left as is currently, the requirement to provide a tree survey is not considered necessary in this instance. The applicants are proposing the planting of additional native trees to increase the biodiversity in the area.

7.25 The application is accompanied by a 'Landscape, Public Right of Ways and Visual Impact Statement'. It provides a lot of visual evidence outlining how the development is acceptable in this location and concludes by stating 'In conclusion, the proposed development will not be detrimental to the visual quality of the local landscape. It has no impact on the use of the PRoWs (sic). The impact on those glimpsed views towards Launton from the surrounding PRoWs (sic) will remain that of development on the edge of the village. But the proposed development will be frontage development, making for a much more attractive entrance into the village for walkers using the footpath route'.

7.26 Overall, taking account of the site context and existing vegetation, officers concur that there would not be a wider landscape harm resulting from the development. Nevertheless, and despite the comments of the Landscape Officer, there remains concern that this area of open space currently provides a natural end to development on this edge of the village and makes a positive contribution to the rural setting, character and identity of the village. Its loss will therefore result in some localised landscape harm. It is not considered that any form of replanting would mitigate for the loss of this area.

- 7.27 Overall the proposed layout is unacceptable in both design terms and also its potential impact on the local landscape and rural setting of the village. It is therefore contrary to guidance provided in the NPPF as well as being contrary to policies ESD13 and ESD 15 of the CLP 2031 and policies C30 of the CLP 1996.

Accessibility, Highway Safety, Parking and Impact on the Public Right of Way

- 7.28 This application proposes an alteration to the existing local highway network insofar as it looks to provide a new access onto the current turning area at the termination of West End (drawing number 6167.04 refers).
- 7.29 Concern has been raised with regard to the ability of the local highway network to accommodate safely the increase in traffic that these dwellings would generate. This has also been a constant complaint through the enforcement case related to the industrial unit due to the need for large lorries to transport steel to and from the site. The local highway authority has taken into account issues raised regarding the junction with West End and Station Road and has balanced this proposal against records which show no recorded accidents on that junction. Overall, they have no objection in highway safety terms relating to additional traffic from the proposed development using this junction.
- 7.30 There are however, significant concerns against the safety associated with the proposed access to the development. Currently the applicant has not demonstrated to the satisfaction of the highway authority that they can provide a safe and suitable access to and from the site for all users. In particular no dedicated pedestrian access is proposed, and the Highway Authority is concerned that there is potential for conflicts to arise between pedestrians and vehicles using the new access. The applicant has submitted additional information with a view to overcoming the concerns that have been raised but at the time of writing this report, no further comments from the local highway authority have been received. Therefore the application fails to demonstrate that safe and convenient access will be provided to serve the development, contrary to Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained in the NPPF.
- 7.31 With regard to any impact on the adjacent Public Right of Way (ref 272/3/10) which passes close to the site, there will not be any permanent impact or obstruction of the right of way as a result of the development. Whilst construction work may have a temporary impact, this can be addressed by way of a planning note on any permission, drawing attention to the need to have consent from the Highways Authority for any temporary obstruction or closure of the right of way.

Residential Impact

- 7.32 Para 17 of the NPPF lists a set of planning principles which should “underpin” both plan-making and decision-taking. One of these principles states planning should “*always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings*”.
- 7.33 Advice provided in Policy ESD15 of the adopted Cherwell Local Plan (2011-2031 part 1) also echoes this by listing its own set of criterion that new development should accord with. This includes “*consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space*”.

- 7.34 Policy ENV 1 of the Local Plan 1996 (saved policy) is of relevance to the issue of residential amenity on this site in relation to the impact that the proximity to the existing mainline railway (some 160 metres to the south) will have on any proposed development in this location.
- 7.35 Considering first the relationship to the existing dwelling recently constructed to the rear (south-east) of the workshop/store (first approved 11/00246/F and then more recently 15/00595/F), the submitted drawings show that the site boundary will be a brick garden wall separating the existing rear garden of the new house from the proposed four parking spaces to serve the four new dwellings on this portion of the site. Furthermore, there is a window serving the bedroom space at first floor level in this existing property as well.
- 7.36 Given that the built form of proposed development is some distance away from the existing dwelling, and would appear to comply with Cherwell Council's guidance on separation distances between residential properties, there will be no issues associated with overlooking or over-domination. The parking spaces, although there will be a level of disturbance due to their use on this boundary, on balance are also not considered to be of enough concern to be considered detrimental to the living conditions of the occupiers.
- 7.37 It is also noted that there will be an increased and more regular use proposed for the current access which runs alongside the boundary of the neighbouring properties. Again this use, whilst increased and likely to be more noticeable, is unlikely to be of such a detriment to the occupiers to justify a refusal of the application.
- 7.38 In terms of the proposed development and its layout, officers are satisfied that the relationship between plots would be acceptable and would comply with Cherwell Council's guidance in respect of minimum distances between residential properties, reducing the potential for overlooking and affording each property with an acceptable amount of outdoor space and outlook.
- 7.39 It is possible that the development will be impacted by the noise of the railway, and the proposed development would bring the built edge of the village closer to the railway than existing. The supporting text to saved Policy ENV 1 (Cherwell Local Plan 1996), states *"where a source of pollution is already established and cannot be abated, the Council will seek to limit its effect by ensure development within the affected area maintains a suitable distance from the pollution source"*.
- 7.40 The applicant has submitted a Noise Impact Assessment, and this concludes that the site is suitable for residential use and that "the future expansion of the railway line is not likely to impact the noise climate at the proposed site". The Assessment was prepared by a qualified firm of civil engineers, and the Council's Environmental Protection Officer has not raised any objections or concerns about the potential noise impact and disturbance to future residents. Therefore, whilst the potential impact on these dwellings from noise from the railway is a concern, it is not considered to be enough justification on its own for recommending the refusal of the application, subject to the mitigation measures proposed in the submitted Noise Impact Assessment.

Ecological Implications

- 7.41 Section 40 of the Natural Environment and Rural Communities Act 2006 (as amended) places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making.

Paragraph 99 of Circular 06/2005: Biodiversity and Geological Conservation states that: *It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.*

- 7.42 Paragraph 109 of the NPPF states that: *The planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and providing net gains in biodiversity where possible.* This requirement is echoed by Policy ESD10 of the CLP 2031 Part 1.
- 7.43 The applicants have submitted an Extended Phase 1 Habitat Survey (originally produced in February 2015). In this submission, the consultants have confirmed that the circumstances are not significantly different since 2015 and as such the conclusions are still valid now.
- 7.44 The survey concludes that there are no likely impacts to any statutory or non-statutory nature conservation sites. Furthermore, the habitats within the site are all of low ecological value. Whilst there is potential for there to be Great Crested Newts living on ponds adjacent to the site, there are no ponds suitable for Great Crested Newts on the site. A further more in-depth study could be conditioned if permission were to be granted, to address the potential risk of Great Crested News crossing the site.
- 7.45 The Council's Ecological Officer has not commented on these proposals but as the survey has concluded that the habitats within the site are of low ecological value, there is little concern that there will be any significant ecological impacts from this development. The proposal is therefore considered to be in compliance with policy.

Affordable housing, infrastructure and service impacts

- 7.46 Policy INF1 of the adopted Cherwell Local Plan 2011-2031 states that; 'development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities'. Contributions can be secured via a section 106 Agreement provided they meet the tests of Regulation 122 and 123 of the Community Infrastructure Regulations 2010 (as amended). Contributions must be:
- Necessary to make the development acceptable in planning terms;
 - Directly relate to the development; and
 - Fairly and reasonable related in scale and kind to the development.
- 7.47 Policy BSC 11 of the adopted Cherwell Local Plan 2011-2031 outlines what is expected in terms of the provision of open space, sport and recreation. It outlines how provision should usually be made on site in accordance with the minimum standards.
- 7.48 Due to the scale and residential nature of the proposed development, it is considered that the proposal is likely to place additional demand on existing facilities and services and local infrastructure, including schools, public transport, sports provision, play provision and public open space. Oxfordshire County Council have requested contributions towards the extension of the S5 bus service to include evenings and Sundays, a s278 agreement to deal with the creation of the new site access, and contributions towards the planned expansion of

Launton Primary School. These items would need to be secured via a section 106 agreement, to mitigate the impacts of the development in this respect. No mention of such an agreement is made in the application submission and neither has the applicant provided the Council with any Heads of Terms to consider.

- 7.49 Given that the proposal seeks consent for ten dwellings, it is necessary for the applicants to provide a Local Area of Play (LAP) on site in accordance with requirements of Cherwell District Councils Supplementary Planning Document, Planning obligations Draft Supplementary Planning Document May 2011 (Appendix D).
- 7.50 Whilst a LAP is proposed on site, there are no details shown in relation to what it will comprise and what arrangements there are for its long term provision. This would need to be addressed by way of conditions and/or a legal agreement.
- 7.51 The Council's Strategic Housing Officer has no objections to the proposed scheme, and given the size of the development, and in accordance with Policy BSC3 of the Cherwell Local Plan 2011-2031 Part 1, the development falls just below the threshold for affordable housing to be provided on the site. Notwithstanding this, it is considered that currently the applicant is not maximising the potential for the development of the site and if the layout and house type were revised it would allow for the provision of some affordable housing. As a result it has not been demonstrated that this is an efficient way of developing the site, and that the site is not suitable for 11 or more dwellings such that Policy BSC3 would apply.
- 7.53 As it stands, the absence of a suitable Section 106 Agreement to make provision for affordable housing and to mitigate the impacts of the development on existing transport and community facilities infrastructure is a secondary reason (following the principal of the development) for refusal of this application.

Other Material Considerations

- 7.54 As the site is currently occupied by, an albeit unauthorised, metal fabrication business, the nature of this use means that there could be issues associated with contamination of the site from material used in the processes and therefore it would be necessary for the applicant to carry out an assessment to the satisfaction of the Council's Environmental Protection Officer. This could be dealt with by condition if the application were to be recommended for approval.
- 7.55 An Enforcement Notice was served (ref 12/00113/EBCON) following the breach of two conditions on the original permission for the workshop/store (ref 10/00021/F). It is alleged that the workshop use is not in accordance with the approved plans and also the external storage was contrary to one of the planning conditions. A Notice was served and then this was successfully defended at appeal. The applicant to date has not complied with the Notice and Cherwell Council are now following procedures to prosecute for non-compliance with the Notice in the Magistrates Court.
- 7.56 The history including the enforcement case is a material consideration as it outlines the harm that the current use causes residents in terms of noise and disruption. The Inspector has agreed that the current use of the building is unacceptable therefore any argument based on removal of the unauthorised use is not a material consideration. If the building was being used in accordance with the planning permission, this would address any harm to neighbouring residents.

8. CONCLUSION AND PLANNING BALANCE

- 8.1 The application for the erection of ten dwellings, whilst potentially acceptable in general sustainability terms under Policy Villages 2 of the Cherwell Local Plan 2011-2031 Part 1, is considered to be poorly designed and integrated with the existing pattern of development in the village, such that the site is not suitable for development in the manner proposed. The form, layout and relationship of the development does not respect the existing settlement pattern, would result in a development that appears disjointed and lacking design coherence, and would result in encroachment onto an area of undeveloped land that currently contributes to the rural setting and character of the village. There would be economic and social benefits resulting from the delivery of new housing, and some limited environmental benefits resulting from the removal of the existing business use. However the existing business use is unauthorised in any event, and in the context of Cherwell Council having a 5 year housing land supply, there is no immediate pressing need for additional housing in the rural areas.
- 8.2 Furthermore, there are significant design issues with the layout and detailed design of the development as it currently stands and there is a lack of a Section 106 Agreement for the site to mitigate the infrastructure impacts of the development and provide for affordable housing.
- 8.3 Against this backdrop, the proposal is considered to cause significant and unacceptable harm to the character, quality and appearance of the area, in conflict with Development Plan policy, and there are no benefits to outweigh this harm. The application should therefore be resisted on the grounds set out below.

9. **Recommendation** – that had Cherwell District Council been the determining authority, it would have **REFUSED** permission for the following reasons:

- 1 By virtue of its siting, scale, layout, and relationship with existing development, in particular its extension to the rear of the building line along West End, its orientation and lack of integration with the streetscene of West End, and the scale and detached form of the plots, the proposed development would result in an inappropriate encroachment into the open countryside beyond the built-up limits of Launton with harm to the rural character and quality of the area and the setting of Launton. The proposal therefore fails to accord with Government guidance contained within the National Planning Policy Framework, Policies Villages 2, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policies H18, C28 and C30 of the Cherwell Local Plan 1996.
- 2 By virtue of its layout and the scale, form and design of individual dwellings, in particular the detached backland relationship of plots 1 to 4, the separate nature of plot 10, and the use of non-traditional features such as exposed chimneys, large porches, deep blank gables and shallow roofs, and fenestration details, the proposed development appears disjointed and incoherent with too great a variation in house types and many inactive edges. The proposal is therefore contrary to the provisions of the National Planning Policy Framework, Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policies C28 and C30 of the Cherwell Local Plan 1996.
- 3 By virtue of a lack of a satisfactory Section 106 legal agreement to ensure that the development adequately mitigates its impact on community and transport infrastructure,

provides appropriate levels of affordable housing, and secures the provision of open space, the local planning authority cannot be satisfied that the impacts of the development in this respect can be made acceptable. The proposal is therefore contrary to the provisions of the National Planning Policy Framework and policy INF 1 of the Cherwell Local Plan 2011-2031 Part 1

CONTACT OFFICER: Michelle Jarvis

TELEPHONE NO: 01295 221826