

Case Officer: James Kirkham

Applicant: Harcourt Rugby Ltd

Proposal: Outline planning permission for the residential development of up to 14 dwellings - all matters save for the means of access are reserved for subsequent approval - re-submission of 19/00831/OUT

Ward: Deddington

Councillors: Councillor Hugo Brown, Councillor Mike Kerford-Byrnes and Councillor Bryn Williams

Reason for Referral: Major development of 10+ dwellings

Expiry Date: 14 February 2020

Committee Date: 13 February 2020

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: REFUSE PERMISSION

Proposal

The current application seeks permission for up to 14 dwellings on the site. All matters are reserved except access which is for consideration under this application.

Consultations

The following consultees have raised **objections** to the application:

- CDC Planning Policy, OCC Highways, OCC Drainage.

The following consultees have raised **no objections** to the application:

- Deddington Parish Council, CDC Ecology, OCC Education, CDC Strategic Housing, CDC Environmental Protection, CDC Recreation and Leisure, Thames Water

The following consultees have **comments/concerns** regarding the application:

- Historic England, Crime Prevention Design Advisor

27 letters of objection have been received.

Planning Policy and Constraints

The application site is within the setting of Deddington Castle which is a Scheduled Ancient Monument (SAM) which located approximately 90 metres to the south of the site. Deddington Conservation Area also exists approximately 150 metres to the west of the site and the SAM to the south of the site is also within the Conservation Area. The site is identified as potentially best and most versatile agricultural land and there are records of protected species including badgers within 250m of the site. The site is also located in an area of elevated arsenic and radon gas.

The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

Conclusion

The key issues arising from the application details are:

- Principle of development
- Impact on the character and appearance of the area
- Heritage impact
- Highway safety
- Residential amenity
- Affordable housing
- Flood Risk and drainage
- Ecology
- Infrastructure
- Other matters

The report looks into the key planning issues in detail, and Officers conclude that the proposal is unacceptable for the following reasons

1. Harmful extension of development beyond the built up limits to the detriment of the character and appearance of the area and harmful to the setting of the SAM and Conservation Area.
2. No legal agreement to secure on-site and offsite planning contributions.

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application relates to an agricultural field located to the south of Clifton Road to the east of Deddington. The land includes a hedgerow with trees to the frontage and an agricultural access. A former agricultural building, which obtained planning permission for use as a MOT testing and incidental car repairs, exists to the west of the site along with a group of trees. A small grouping of dwellings in a linear arrangement exists immediately to the west of the site which are detached from the main built limits of Deddington. There are a number of dwellings and a commercial area to the north of the site, arranged in loose and sporadic arrangement with undeveloped fields separating them. The site falls gently in south easterly direction. The southern boundary is currently open with the larger agricultural field.

2. CONSTRAINTS

- 2.1. The application site is within the setting of Deddington Castle, which is a Scheduled Ancient Monument (SAM) and located approximately 90 metres to the south of the site. Deddington Conservation Area also exists approximately 150 metres to the west of the site and the SAM to the south of the site is also within the Conservation Area. The site is identified as potentially best and most versatile agricultural land and there are records of protected species including badgers within 250m of the site. The site is also located in an area of elevated arsenic and radon gas.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The current application is made in outline, with all matters reserved except access, for up to 14 dwellings on the site. The plans show the provision of a new access with footways either side in approximately the same location as the existing agricultural access.
- 3.2. The plans also indicate it is proposed to upgrade to the existing footpath along Clifton from the proposed site access to the junction with Earls Lane to 2 metres wide. It is then proposed to include a new non-signalised crossing point to Earls Lane and include a new 2m footpath along the southern end of Earls Lane to the existing footway at Pound Court.
- 3.3. An indicative site layout plan has been submitted which shows the provision of 14 dwellings on the site, accessed from private drives off the main access. The dwellings would face Clifton Road, and consisting of 9 detached dwellings, 3 terrace dwellings and 2 flats.
- 3.4. *Timescales for Delivery:* No indication has been provided on the timescale for delivery of the site. However, the applicant says in their Planning Statement that it could be delivered in the next 5 years.

4. RELEVANT PLANNING HISTORY

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

19/00831/OUT – OUTLINE - Residential development of up to 15 dwellings – Refused for the following reasons:

1. By virtue of its poorly integrated relationship with existing built development, its extension beyond the built limits of the village and its scale and location, the proposed development would cause significant and demonstrable harm to the character and appearance of the area and the rural setting of the village and would fail to reinforce local distinctiveness. For the same reasons the proposal would also result in 'less than substantial' harm to the setting of the nearby Scheduled Ancient Monument and Conservation Area and the harm stemming from the proposals are not considered to be outweighed by any public benefits. The proposal is therefore contrary to Policies ESD13, ESD15 and Villages 2 of the Cherwell Local Plan (2011-2031) Part 1, saved Policies C28 and C33 of the Cherwell Local Plan 1996, Cherwell Residential Design Guide SPD (2018) and Government guidance contained within the National Planning Policy Framework.

2. The development proposed, by reason of its relationship and poor pedestrian connections to the centre of the village and service and facilities (including bus stop) and taking into account Cherwell District Council's ability to demonstrate an up-to-date housing land supply, would not provide good access to services and facilities and public transport in the interests of reducing the need to travel and promoting sustainable transport options. Therefore the proposal is contrary to Policies ESD1, SLE4 and Villages 2 of the Cherwell Local Plan (2011-2031) Part 1, and Government guidance contained within the National Planning Policy Framework.

3. By reason of the site's location in an area of known archaeological interest with high potential for significant archaeological deposits to survive on site, and in the absence of a detailed and adequate archaeological field evaluation, the Local Planning Authority cannot be satisfied that the proposal would not result in unacceptable and unavoidable harm to archaeological assets. Thus, the proposal

conflicts with Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.

4. The application submission fails to demonstrate that suitable and safe access to the site can be provided in the interests of highway safety given the lack of information regarding the vehicle speeds near the site. The proposed development therefore conflicts with Policy SLE4 of the Cherwell Local Plan (2011-2031) Part 1 and advice in the National Planning Policy Framework.

5. The submitted Drainage Strategy is inadequate and does not provide sufficient information to demonstrate that a drainage strategy based on Sustainable Urban Drainage Systems has been explored for the site. The proposal is therefore contrary to Policy ESD7 of the Cherwell Local Plan and advice in the Written Ministerial Statement on Sustainable Drainage Systems (Dec 2014).

6. In the absence of the completion of a satisfactory Planning Obligation, the Local Planning Authority is not convinced that the necessary infrastructure (including education, open space, sports facilities, community facilities, highway infrastructure and affordable housing) directly required as a result of this development, in the interests of supporting the sustainability of the village and the development, mix and balanced communities, and in the interests of safeguarding public infrastructure and securing on site future maintenance arrangements, will be provided. This would be contrary to Policies INF1, PSD1, BSC3, BSC10 and BSC11 of the Cherwell Local Plan (2011-2031) Part 1, the Developer Contributions SPD (2018) and Government guidance contained within the National Planning Policy Framework.

An appeal has been lodged on the above refusal. However, no Start Date has yet been provided by the Planning Inspectorate.

4.2. The following planning history is also considered relevant to the current proposal:

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
13/01941/OUT	Outlined – Erection of 7 dwellings	Appeal dismissed

4.3. The above related to a site on St Thomas Street in Deddington. The key issue at the time was the impact on the setting of Deddington Castle and the Conservation Area. The appeal was dismissed because of the proposal's impact on the setting of heritage assets.

5. PRE-APPLICATION DISCUSSIONS

5.1. No pre-application discussions have taken place with regard to this proposal.

6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **27 December 2019**, although comments received after this date and before finalising this report have also been taken into account.

6.2. 27 letters of objection have been received to the application. They can be summarised as follows:

- Principle of development: Site does not form part of the Neighbourhood Plan; the site is too remote, poor accessibility and pedestrian connections to centre of village and services; no need for the development; lack of employment options in village; bus service is poor; residents would be reliant on private car.
- Impact on form, and character and appearance of the village: Impact on character and appearance and visual amenity of area including issues of pattern of development, layout, density and setting of the village. Harm to the identity of the village and rural approach. Harmful intrusion into the open countryside and harmful to the boundary of village. Layout, design, appearance and materials inappropriate for the site
- Impact on heritage assets: Impact on Conservation Area and setting of Deddington Castle including similar appeal in the village. Harmful impact of works to footpaths.
- Impact on highway safety: Access is unsuitable given proximity to other junctions and unsafe given vehicle speeds. Traffic generation and impact on highway capacity.
- Parking issue. Exacerbation of parking issues with footpath proposal only Earls Lane.
- Impact on neighbours from noise and disturbance, light pollution, loss of light, loss of privacy and overshadowing
- Impact on local amenities (including Doctors / School)
- Request for contributions to Holly Tree Club.
- Foul water disposal
- Surface water drainage
- Loss of trees
- Impact on ecology and wildlife
- Impact on archaeology
- Would create a precedent for similar developments in Deddington and the surrounding area. Development allows for future development further to the south.
- Does not overcome reasons for recent refusal on the site.

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

7. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. DEDDINGTON PARISH COUNCIL: **No objection** but asks for S106 funding for the S4 bus service, affordable housing is tenure blind and not clustered to the east, sufficient parking is provided, traffic calming and extension of 30mph limit, suitable crossing over Clifton Road to Earls Lane, footpath standard improved, LED streetlighting, buffer planting to mitigate visual impact and consideration given to Deddington Parish Council S106 funding list.

CONSULTEES

- 7.3. HISTORIC ENGLAND: **Comments the proposal would lead to 'less than substantial harm' to the setting of Deddington Castle and Conservation Area.** This needs to be balanced against any public benefits as required by the NPPF.
- 7.4. *Significance:* Significance of a heritage asset is normally considered as being the sum of its heritage values - evidential, historic (illustrative and associative), aesthetic and communal. Consideration of significance also includes any contribution made to significance by the setting of the asset.
- 7.5. The earthworks of Deddington Castle, and the results from excavations, indicate that it is an 11th-century Norman motte and bailey castle, and that a 12th-century enclosure castle was constructed within the earlier fortification. The western bailey survives as an extensive raised area surrounded by high outer banks and an external ditch. The high mound of the motte is in the north-east corner of the western bailey and survives partially, having been cut through for the creation of the enclosure castle. A second bailey to the east of the motte is mainly known from aerial photographs but some earthworks survive. The castle is one of the best preserved earthwork monuments relating to the period in Oxfordshire. Unlike other similar castles, it appears to have been located remotely from the original village of Deddington and this separation has been perpetuated over time. The isolation may be connected with its status as the location of the 'caput' (lead site) of an 'honour' or estate, possibly of Odo, Bishop of Bayeux and the brother of William I.
- 7.6. The scheduled castle has very high evidential value - archaeological remains relating to construction and use of the castle, including waterlogged remains within the ditches. The development will not impact on these.
- 7.7. The castle also has high historic (illustrative) value in demonstrating how the Normans deliberately dominated the surrounding landscape militarily and physically by choosing an elevated site, and how the castle stands separate from the village - the existing mainly open setting contributes to that significance. Although there is tree cover around the edges of the castle, there are still places where its dominant position can be appreciated, and the views are improved during the winter when the trees are not in leaf.
- 7.8. The communal value of the castle is clear, as a valued asset - the site is much used for walking and is well-visited. Views out from the castle across the open countryside are clearly part of what is valued and enjoyed by visitors. A strong local interest is demonstrated by the existence of the local group, Friends of Deddington Castle. The central motte area is in the care of the Secretary of State and is managed by English Heritage.
- 7.9. *Impact:* There would be no impact on the evidential value of the scheduled monument. There will be some negative impact on the historic (illustrative) value of the monument caused by the construction of the housing in what is currently an open field, causing a change to the setting. While it is true that there are already some buildings west of the application site and beyond Clifton Road, it is considered further infill as incremental negative change to the mainly open setting. In summer

with the trees in leaf there are only small glimpsed views of the application site from the top of the motte. The applicant's Archaeological Desk-based Assessment (RPS July 2019, is incorrect in saying that the site cannot be seen at all. These views are clearer in winter (the trees are mainly deciduous) and Historic England guidance on setting (referenced above) is that seasonality and impermanence of screening should be taken into account. The current management of the monument has led to quite dense tree growth, but future good management would require some shrub clearance and thinning of trees (tree roots, and possible windthrow, are damaging to archaeological deposits and earthworks) including some of the many trees currently being choked by ivy growth. It is therefore likely that more open views will be available in the future.

- 7.10. The DBA proposes tree screening for the new development as mitigation. While this may provide some screening, this is a long-term measure, and that existing buildings show it is not particularly effective as the upper parts of buildings are still visible, particularly when seen from the raised viewpoints on the motte and west bailey. The new development would still read as housing when viewed, and not as rural space.
- 7.11. As regards views towards the castle from Clifton Road and the development site, in winter the top line of the earthworks is faintly discernible but it is not possible to appreciate the castle from these locations.
- 7.12. Taking into account the impact discussed above, it is advised that the development would cause harm, but certainly less than substantial harm, to the significance of the scheduled monument (as contributed to by its setting). This agrees with the conclusions of the applicant, whose Heritage Statement states that the development will cause less than substantial harm. The concept of less than substantial harm is covered in the National Planning Policy Framework (NPPF) 2019, paragraphs 193, 196. There is no formal scale for less than substantial harm, but the harm caused will certainly be at the lower end of the range. Your local authority will need to balance this harm against any public benefit from the development, as required by the NPPF, paragraph 196. Paragraphs 193 and 194 of the NPPF require that great weight should be given to the conservation of a designated asset, irrespective of the level of harm, and that any harm should be fully justified.
- 7.13. The Desk-Based Assessment submitted by the applicant states that: *The historic setting of the monument as a defensive monument generally cannot be appreciated either from within the monument itself or from the surrounding area. Therefore, it is considered that the study site no longer provides a substantive contribution to the setting of the monument and, consequently, the study site is considered to make only a minor contribution to the significance of the Scheduled Monument and the way in which the monument can be appreciated.*
- 7.14. The first sentence is incorrect and there are a number of other open views where the defensive setting and separation from the village can be appreciate. The Deddington Conservation Area includes the entire Deddington Castle and the mainly open setting of the Castle is clearly also the setting of this part of the Conservation Area and contributes to its significance. The same level harm would be causes to the Conservation Area and this considered in the balancing exercise.
- 7.15. The trail trenching should be considered by OCC Archaeological Service.
- 7.16. OCC HIGHWAYS: **Objects** due to lack of sustainable travel to and from the site, lack of information of appropriate visibility splays based on recorded speed date and lack of continuous, safe walking route between the site and village centre facilities and bus stops, health centre and primary school.

- 7.1. The site has poor existing pedestrian infrastructure back to the village services and no safe crossing point. Along with the distance the village centre and nearby bus stop with that that opportunities for sustainable travel are limited. The existing bus service is very unlikely to divert from its existing route to serve the development and there are no services along the B4031. Given the distance of the development from the nearest bus stop (OCC guidance is that dwellings should be within a 400m walk distance of bus stops), coupled with the poor walking route, this would suggest it is unlikely many trips would be made on foot, and, although some may be made by bicycle, it is likely the majority would be by private car.
- 7.2. The access to the site is from a minor access road 5.5m wide with footpaths either side of the site which is acceptable for this type of development. A speed survey has now been undertaken however from the drawing submitted it is unclear whether appropriate visibility can be achieved in both directions either within the adopted highway or land controlled by the applicant. Further, the visibility as shown on the above drawing does not show the appropriate visibility splays based upon speed survey data. The speed survey data that has been submitted does show that the 85th percentile recorded speeds do exceed the posted speed limits. As a result, visibility splays onto existing roads must be calculated based on 85th percentile speeds. To date, this has not been demonstrated with this submission.
- 7.3. Due to the straight alignment of Clifton Road and recorded speeds traffic calming should be considered as part of the S278 scheme to reduce traffic speeds.
- 7.4. A footway exists on the southern stretch of the Clifton Road from Deddington to Clifton. However, this footway is narrow, substandard, unlit and there is no safe crossing point from the southern side of the footway where it terminates and then begins again on the northern side of the road.
- 7.5. There is poor visibility at the curvature of the road as it enters the main village past the Earls Lane junction and it is unlikely to be possible to introduce a safe crossing point to allow safe pedestrian connectivity into the main part of the village, both in terms of pedestrian visibility and the record 85th percentile speeds exceeding the posted speed limits. Further, should introducing a crossing further towards Clifton and on the eastern side of the Earls Lane junction be proposed, this would not be effective as no footway exists along Earls Lane in this location. This too would require forced enforcement of the speed via traffic calming features.
- 7.6. It is proposed with this submission to introduce a footway along the length of Earls Lane from the site and connect up to the existing footway located on the western side of Pound Court. However, the submission only shows this as indicative along Earls Lane as outlined above. The applicant hasn't demonstrated whether an adoptable footway could be delivered and that it could be delivered wholly within the adopted highway. A further complication to any footway link via Earls Lane is the substation located adjacent to the health centre. The substation significantly narrows what footway is available and it is unlikely that the substation could be relocated in order to free up the highway land that the substation is located on. As a result, the footway at this location is too narrow for a wheelchair or pushchair user to navigate. Thus, should it be used as proposed by the applicant, it is highly unlikely that users of the footway, able bodied or otherwise will be forced to walk within the highway.
- 7.7. The layout of the site will be considered in greater detail at a later reserved matters stage.
- 7.8. If planning permission is granted would require an S106 to secure a S278 to:
 - Form a bellmouth access to the site

- Provision of a continuous, safe, high quality footway link to the village centre
 - A traffic calming measure.
 - Increase the 30mph speed limit.
 - A Vehicle Activated Sign (VAS).
- 7.9. CDC PLANNING POLICY: **Objects** due to the proposed development being poorly related to existing built development and its scale and location beyond the built limits of the village. The development proposed is also poorly connected to the centre of the village and would not provide good access to services and facilities and public transport.
- 7.10. OCC EDUCATION: **No objection** subject to conditions in relation to Early Years, Primary and Secondary (including sixth form) education.
- 7.11. LEAD LOCAL FLOOD AUTHORITY: **Objection.** Further information is required. Submitted information needs to be worked up into full Outlined Design preparation for submission of a full Detailed Design aligned with National and Local Policy. Raise evidence of consent to discharge into ditch, query microdrainage inputs, post development flow paths to be shown on the plan. Justification that green space has been utilised to its maximum potential for SUDs and sacrificial areas in the event of exceedance should be considered.
- 7.12. CDC STRATEGIC HOUSING: **No objection.** Would expect to see 5 affordable units with 70% social rent and 30% shared ownership. Suggest mix of 2 x 1 bed (SR), 2 x 2bed (SR) and 1 x 2bed (SO). 50% of the social rent should be built to M4(2)(2) requirement and all should met Nationally Described Space Standard. The affordable housing should be indistinguishable in terms of external design from the market housing and be integrated throughout the site, where possible.
- 7.13. CDC ENVIRONMENTAL PROTECTION: **No objection subject to conditions** regarding noise report, Construction Environmental Management Plan, ground investigation, provision of electric vehicle charging infrastructure and an Air Quality Impact Assessment.
- 7.14. CDC RECREATION AND LEISURE: **No objections** subject to contributions to mitigate impact on outdoor and indoor sports provision and community facilities.
- 7.15. CRIME PREVENTION DESIGN ADVISOR: **No objection** but has some concerns regarding crime design prevention. Raises concerns over the parking areas to the rear of Plots 7, 8 and 9, and also rear gates should be as close to the building line as possible to reduce alleyways etc. Windows of active rooms should overlook the parking. Provide comments in relation to matters for consideration at reserved matters stage.
- 7.16. CDC BUILDING CONTROL: **No objection.** Access to fire engines and refuse vehicles will need to be considered.
- 7.17. THAMES WATER: **No objection.** Advises that with regards to water network and water treatment infrastructure capacity they do not have any objection to the above planning application. With regards to waste water network and sewage treatment works infrastructure capacity raise no objection. Any groundwater discharges to the public sewer will require a licence. The sequential approach should be followed for the disposal of surface water.

8. RELEVANT PLANNING POLICY AND GUIDANCE

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

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

- PSD1 – Presumption in Favour of Sustainable Development
- SLE4 – Improved Transport and Connections
- BSC1 – District Wide Housing Distribution
- BSC2 – The Effective and Efficient Use of Land – Brownfield land and Housing Density
- BSC3 – Affordable Housing
- BSC4 – Housing Mix
- BSC10 – Open Space, Outdoor Sport and Recreation Provision
- BSC11 – Local Standards of Provision – Outdoor Recreation
- BSC12 – Indoor Sport, Recreation and Community Facilities
- ESD1 – Mitigating and Adapting to Climate Change
- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD6 – Sustainable Flood Risk Management
- ESD7 – Sustainable Drainage Systems (SuDs)
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 – Local Landscape Protection and Enhancement
- ESD15 – The Character of the Built and Historic Environment
- ESD17 – Green Infrastructure
- Villages 1 – Village Categorisation
- Villages 2 – Distribution Growth Across the Rural Areas
- INF1 – Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18 – New dwellings in the countryside
- C8 – Sporadic development in the open countryside
- C25 – Development affecting the site or setting of a scheduled ancient monument
- C28 – Layout, design and external appearance of new development
- C30 – Design of new residential development
- C33 – Local gaps
- ENV1 – Environmental pollution
- ENV12 – Potentially contaminated land

- 8.3. Other Material Planning Considerations:

- National Planning Policy Framework (“NPPF”)

- Planning Practice Guidance (“PPG”)
- Housing Land Supply in Oxfordshire: Written statement - HCWS955
- Annual Monitoring Report (“AMR”) 2019
- Developer Contributions SPD
- Cherwell Residential Design Guide SPD
- Deddington Conservation Area Appraisal
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- Housing and Economic Land Availability Assessment (February 2018)
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)

8.4. The Deddington Neighbourhood Plan has now been formally withdrawn. This therefore holds no weight in the determination of planning applications.

9. APPRAISAL

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

- Principle of development
- Impact on the character and appearance of the area
- Heritage impact
- Highway safety
- Residential amenity
- Affordable housing
- Flood Risk and drainage
- Ecology
- Infrastructure
- Other matters

Principle of Development

9.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

9.3. The Development Plan for Cherwell includes the Cherwell Local Plan 2011-2031 (adopted in July 2015), the saved policies of the Cherwell Local Plan 1996 and a number of adopted Neighbourhood Plans (none of which are relevant to this site as the Deddington Neighbourhood Plan has been formally withdrawn). The site is not allocated for development in any adopted or emerging policy document forming part of the Development Plan and is not previously developed land. The site is considered to sit outside the established built limits of Deddington.

Policy Context

The Development Plan

9.4. The Cherwell Local Plan 2011-2031 seeks to allocate sufficient land to meet District Wide Housing needs. The overall housing strategy is to focus housing growth at the towns of Banbury and Bicester and one strategic site (Heyford) outside of these towns. Policy ESD1 identifies that in mitigating the impact of development within the district on climate change, growth will be distributed to the most sustainable

locations as defined in the Plan and to deliver development that seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce dependence on private cars.

- 9.5. The application site is outside the built up limits of Deddington and saved Policy H18 of the Cherwell Local Plan 1996 restricts development outside the built-up limits of settlements except in a number of circumstances; none of which are applicable to this current application. The proposal therefore conflicts with Saved Policy H18.
- 9.6. However, in recognising that there is a need within the rural areas to meet local and Cherwell wide housing needs, the Cherwell Local Plan 2011-2031 at Policy BSC1 allocates 2,350 homes for the 'Rest of the District' in addition to windfall development. Of these, 1,600 homes are allocated by Policy Villages 5 at Former RAF Upper Heyford leaving 750 homes identified for development elsewhere. Policy Villages 2 provides for these 750 homes to be delivered at Category A villages and provides a number of criteria for such applications to be assessed against. Policy Villages 2 is therefore the appropriate policy against which to assess this proposal.
- 9.7. Category A villages are identified under Policy Villages 1 of the Cherwell Local Plan Part 1. Policy Villages 1 provides a categorisation of the District's villages to ensure that unplanned, small scale development within villages is directed towards those villages that are best able to accommodate limited growth. Category A villages are those identified as being the most sustainable in the hierarchy of villages in the District.
- 9.8. Policy Villages 1 classifies Deddington as a category A village. The current proposal does not, however, comply with the type of development identified as being appropriate under Policy Villages 1 due to the site being outside the built up limits of the village and not representing minor development, being over 10 dwellings.
- 9.9. Policy Villages 2 advises that these sites would 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. A number of criteria are listed in Policy Villages 2 and particular regard must be had to these criteria when considering sites, whether through plan making or the planning application process. The intention of this approach is to protect and enhance the services, facilities, landscapes and the natural and historic built environments of the villages and rural areas whilst recognising the need for some development.

National Policy

- 9.10. The NPPF confirms that there is a presumption in favour of sustainable development. For decision making this means approving proposals that accord with the development plan without delay. The Framework advises that there are three dimensions to Sustainable Development; economic, social and environmental. With regard to housing, the NPPF supports the need to boost significantly the supply of housing to meet the full, objectively assessed need for housing. It requires LPAs to identify and update annually a supply of specific, deliverable sites sufficient to provide 5 years' worth of housing against the housing requirements, with an additional buffer of 5% to ensure choice and competition in the market for land. The Council's 2019 Annual Monitoring Report (AMR), approved by Members at the Executive meeting on the 6 January 2020, confirms that the District can demonstrate a 4.6 year housing land supply (for the current period 2019-2024) with a 5% buffer and a 4.4 year housing land supply for the next 5 year period (2020-2025).

- 9.11. In the circumstances that an LPA cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer), there is a presumption in favour of sustainable development and the circumstances at paragraph 11d of the NPPF are engaged. This sets out that the development plan's housing strategy policies must be considered to be out of date, which means development should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole.
- 9.12. However, in respect of the Oxfordshire Authorities including Cherwell there is a Written Ministerial Statement ("WMS") made in September 2018 concerning the Housing and Growth Deal, which is a significant material consideration. The WMS grants the Oxfordshire Authorities flexibility on maintaining a 5 year housing land supply. This sets out the requirement for a 3 year supply of deliverable housing sites (with the appropriate buffer) from the date it was made (12/09/2018) until the adoption of the Joint Statutory Spatial Plan in each area, providing the timescales in the Housing and Growth Deal are adhered to.
- 9.13. In this case, the tilted balance set out by Paragraph 11d is not engaged because the Housing Supply requirement for the District should be taken to be 3 years in accordance with the WMS (appeal decisions in South Oxfordshire have reached this conclusion).

Monitoring and recent appeal decisions

- 9.14. The Council's most recent AMR (December 2019) sets out that 953 dwellings have been identified for meeting the Policy Villages 2 requirement which are sites with either planning permission or a resolution to approve and are identified, developable sites. This is made up of 582 dwellings either complete or under construction, 333 dwellings with planning permission and 38 dwellings that are considered developable (this 38 is made up of two sites – one with a resolution for approval and one for which the planning permission has lapsed).
- 9.15. Between 1 April 2014 and 31 March 2019, there were a total of 271 net housing completions. As reported above, there are a further 311 dwellings under construction, and it is reasonable to assume that these dwellings will be completed.
- 9.16. In recognition that not all sites will necessarily be developed or will not necessarily deliver the full number of dwellings granted, a 10% non-implementation rate has been applied to sites with permission but on which development has not yet started. This reduces the 333 dwellings (i.e. those with planning permission but not implemented) reported in paragraph 9.15 to 300 dwellings. This would give the number of dwellings identified under Policy Villages 2 either completed, under construction, with planning permission or developable as 920 dwellings. There was also a further resolution for approval granted for a site at Fritwell at the December 2019 planning committee for 28 dwellings, which would be additional to the 920 dwellings.
- 9.17. Five appeal decisions have been received over the past year which have considered the application of Policy Villages 2. These are for sites at Launton, Ambrosden, Bodicote, Sibford Ferris and Weston on the Green. The first four were allowed, and the numbers approved at those four sites are included within the figures. The key conclusions resulting from the Launton, Bodicote, Weston on the Green and Sibford Ferris appeals can be summarised as:
- The Policy Villages 2 number of 750 dwellings has not been 'delivered' yet.

- The number of 750 has development management significance in terms of the Local Plan strategy.
- Not all dwellings approved might be delivered (hence the Council's inclusion of a 10% non-implementation rate in the most recent AMR)
- The number of dwellings proposed must be considered as to whether that number would undermine the strategy of the Local Plan
- There is no spatial strategy to the distribution of the 750 houses allocated in the rural areas under Policy Villages 2 beyond distribution to the Category A villages.
- Assessment of the sustainability of the settlement in question is required, and indeed this has been a primary consideration in a number of appeals relating to major housing development at Category A villages, with appeals at Finmere, Fringford and Weston on the Green having been dismissed, in each case the sustainability of the settlement being a key issue.

Assessment

- 9.18. The site is not allocated for development in any adopted or emerging policy document forming part of the Development Plan and the site sits outside the built up limits of the village given its physical and visual relationship to the existing built form. The applicant contests this assessment. However, officers consider that sites must have a clear urban grain and close relationship with the existing built up limits of villages to be considered as being within the built limits. In this case the application site clearly forms part of a wider agricultural field, which sits away and separate from the established built up limits of the village. Whilst there is sporadic development either side of the site along Clifton Road, which has occurred over a number of years, there are open fields between the buildings and separated from the main built form of the village, which means officers conclude the site is not within the built limits of the village.
- 9.19. Deddington is recognised as a 'Category A' village and is one of the larger villages in the District (6th out of 23) with a relatively wide range of services and facilities compared to other Category A settlements. It has a relatively regular bus service (S4 route – approximately hourly), which runs between Banbury and Oxford. Overall therefore it is considered to be one of the more sustainable Category A villages.
- 9.20. The acceptability of the proposal therefore needs to be tested against the criteria listed in Policy Villages 2 of the CLP 2015, as well as other material planning considerations. However, in the first instance it is important to consider whether the scale and quantity of development at Deddington, is in accordance with the overarching housing strategy of the CLP 2031.
- 9.21. The position with regards to the Council's Housing Land Supply and progress against Policy Villages 2 is outlined above. There is one other site in Deddington which has a resolution to approve under Policy Villages 2 for up to 21 dwellings (19/02147/OUT refers). Whilst Deddington has seen other growth in the plan period (such as 85 dwellings at Deddington Grange adjacent to the northern built up limits) these were permitted prior to the adoption of the CLP 2015 so do not count towards the Policy Villages 2 housing allocation.
- 9.22. The 750 dwellings to be delivered at Category A villages is not an upper limit, but the policy describes it as a 'total' and significant deviation from this may result in unconstrained growth in less sustainable locations, which would conflict with the

housing strategy of the Development Plan which has a strong urban focus. Therefore, it is considered that the position in which the Council finds itself in regard to the allocation under Policy Villages 2 means that there is no urgent need to grant permission for significant additional growth under this policy and must be a matter considered in the planning balance.

- 9.23. The proposal would lead to the number of permissions being granted at Category A villages exceeding the 750 dwellings in Policy Villages 2. However, officers do not consider in this particular instance, given the scale of the development, the position regarding delivery under Policy Villages 2 and the sustainability of Deddington, that the proposal could be regarded as a departure from the Council's housing strategy.
- 9.24. Therefore, whilst acknowledging there is no urgent need to release additional land in the rural area under Policy Villages 2, given the relative sustainability of Deddington, and the fact that this proposal is for up to 14 dwellings and no more, and the fact that the aggregate of completions and commencements at Category A villages has yet to reach 750, it is considered that in this particular instance this level of additional growth at Deddington would not be seen to undermine the wider rural housing strategy. However, Policy Villages 2 requires the consideration of a wider number of issues and for the reasons outlined below and elsewhere in this report it is not considered that the principle of developing this site for residential purposes would comply with Policy Villages 2.
- 9.25. The criteria in Policy Villages 2 include consideration of whether the site is well located to services and facilities and also whether satisfactory pedestrian access/egress can be provided. The application site is located to the eastern side of the village and is separated away from the main built form of the village by open land. It is located approximately 800 metres from the village centre which contains a variety of services and bus stops. It is also further away from the Windmill Centre which houses community uses and sports facilities at the western edge of the settlement.
- 9.26. The Local Highway Authority (LHA) notes that the footpath to the village is sub-standard, narrow, unlit and terminates along Clifton Road where there is not a safe crossing point for pedestrians to cross. Furthermore, it is noted that the footpath closer to the village is not ideal in terms of widths and connections given historic constraints. The LHA considers that, given a combination of the distance to the services and the poor quality of these routes, it is likely to deter future residents going on foot and encouraging sustainable forms of travel. Furthermore, the bus service is located over 800 metres from the site which is in excess of OCCs guidance and is not well connected to the site. In addition, given the location of the site outside the built limits footpaths leading back to the village do not have a strong sense of surveillance and have a detached feel from the facilities in the village, which is likely to further discourage walking by future residents.
- 9.27. Therefore, whilst the wider village includes a good range of services and facilities given the poor connections between the site and these services and facilities this is considered to be a matter that weighs against the development.
- 9.28. The applicant has now submitted plans that would include the upgrading of the footpath adjacent to Clifton Road, a new crossing point to Earls Lane and the provision of a new footpath along Earls Lane to provide better access to facilities including the school, health centre and bus stop. This does go some way to improve connections to the village. However, formal comments are awaited from the LHA on this matter and whether such works are likely to be achievable and will be reported in an update to Committee.

Conclusion

- 9.29. Overall, on balance, and having regard to the factors above it is considered that the principle of this scale of growth could be acceptable in Deddington in the context of the Council's housing strategy. However, the poor walking routes and distances to the services and facilities weighs against the development in considering the application under the criteria of Villages 2, and the impact on the character and appearance of the area and that of the Conservation Area of the works required to make the location more sustainable mean that the LPA would not support those works. Furthermore, regard also must be had to the proposal being assessed against the other relevant criteria of Policy Villages 2 and the other relevant policies and guidance, which is discussed below.

Impact on character and appearance of area

Policy context

- 9.5. Government guidance contained within the NPPF towards achieving well-designed places states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. The NPPG goes on to note that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Further, Paragraph 130 of the NPPF states that permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.
- 9.6. Paragraph 127 of the NPPF states that planning decisions should ensure that developments:
- Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change;
 - Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
 - Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks;
 - Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 9.30. Policy ESD15 of the Cherwell Local Plan Part 1 states that: *“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.”

9.31. Policy ESD13 of the Cherwell Local Plan Part 1 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.”*

9.32. Policy Villages 2 also states regard will be had to whether a proposal would have significant adverse impacts on heritage, whether development could contribute to enhancing the built environment and whether significant adverse landscape and impacts can be avoided in determining applications under that policy.

9.33. Saved Policy C8 seeks to limit sporadic development beyond the built limits of settlements.

9.34. Saved Policy C33 states the Council will seeks to retain any undeveloped gap with is important in preserving the character of a loose knit settlement structure or maintaining the setting of heritage assets.

9.35. The Cherwell Residential Guide SPD (2018) builds on the above policies and provides a framework to deliver high quality locally distinctive development.

Assessment

9.36. The application site is located at a key entrance to the village, which has a strong rural approach which positively contributes to the rural setting and character and appearance of the village. The area includes a number of groups of buildings; however, they are set between parcels of open land, such as the application site, which imparts a very loose knit and spacious character and appearance to the area where views are available out into the wider landscape. This includes far ranging views across the application site to the south. This provides a soft and gentle transition between the wider countryside and main built up area of Deddington and the application site contributes positively to this.

9.37. The proposed development would harmfully impact on the loose knit settlement pattern in this area and result in a harmful urbanisation of the site and the wider locality to the detriment of the rural setting of the village. It would result in further ribbon development along the Clifton Road. The development would be clearly visible when approaching and leaving the village along Clifton Road and would be at odds with the surrounding character of the area. The creation of development of this size and density, detached from the main built form of the village by open land, would be out of character with the loose knit pattern of development in this area and would appear incongruous in this location resulting in the creation of a small modern housing estate isolated from the core of the existing development in the village.

- 9.38. Whilst the landscape and visual impacts would be relatively localised they would no doubt be harmful and incongruous given the context particularly along Clifton Road and views from the south. The application is not accompanied by a Landscape Visual Impact Assessment, but officers also consider that views of the site are likely to be available from some parts of Chapmans Lane, which is a public right of way to the south of the site, particularly in winter months when vegetation is more sparse. In these views the proposed development is likely to stand out given the intervening topography.
- 9.39. The indicative layout submitted with the application varies to the earlier refusal on the site which showed the provision of a cul-de-sac form of development with development backing onto Clifton Road. The indicative layout now shows the provision of a linear form of development facing Clifton Road which would be more in keeping with the adjacent dwellings. However, the indicative layout shows that dwellings would be located behind a private drive and there would be much less space between the dwellings than the existing dwellings immediately to the west of the site (which have a verdant and spacious layout). This would all exacerbate the poorly integrated nature of the development and the harmful impact on the character and appearance of the area as outlined above.
- 9.40. Whilst these plans are only indicative officers consider that, to accommodate the level of growth proposed on the site, development would need to be arranged in a similar manner and perceived density. Officers also have a number of other concerns in relation to the layout of the site. Firstly the layout of the proposal shows the provision of all the affordable housing to the east of the site in a rather cramped layout and these would clearly be distinguishable from the market housing given their layout, density and likely form. This would be contrary to the Council's guidance and policy objectives which seek to ensure that affordable housing is fully integrated into the scheme and is tenure blind. The indicative layout also does not appear to make any provision for public open space which would be required for the development in the form of general green space and a Local Area of Play. This would have a clear impact on the layout of the scheme and the perceived density given that these spaces would need to be integrated in to the design and benefit from good surveillance. The indicative layout also does not appear to make provision for the requirement of a pumping station in the south eastern extent of the site which the applicants Drainage Statement indicates will be required to provide a foul water connection to the mains. All of these issues are likely to further impact on the layout of the site and result in a tighter form of development at further odds with the surroundings.
- 9.41. Given the application is made in outline, details of the scale, layout and appearance of the dwellings would be reserved for future applications. However, the Design and Access Statement should provide a framework to demonstrate how a successful development could be achieved. The concerns regarding the indicative layout are outlined above. The Design and Access Statement submitted with the application provides some details on the appearance of the dwellings, but officers still have concerns regarding the intended design and detailing of the dwellings as they would appear to be based on inappropriate modern development rather than the more locally distinctive vernacular form and materials as required by the Cherwell Residential Development Design Guide SPD.
- 9.42. Overall, therefore, the development of the site is considered to be poorly related to the pattern of development in the locality, harmful to the character and appearance of the area and setting of the village and result in a harmful visual intrusion to the open countryside. The proposal is therefore contrary to Policies ESD13, ESD15 and Villages 2 of the Cherwell Local Plan Part 1, Saved Policies C28, C30 and C33

of the Cherwell Local Plan 1996, Cherwell Residential Design Guide SPD (2018) and advice in the NPPF.

Heritage Impact

Legislative and policy context

- 9.43. The site is within the setting of a Conservation Area and also within the setting of the Scheduled Ancient Monument of Deddington Castle.
- 9.44. Conservation Areas and Scheduled Monuments are designated heritage assets, and Paragraph 193 of the NPPF states that: *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 (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* It goes on to state any harm to the significance of a designated heritage asset or its setting should require clear and convincing justification. Where development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 9.45. Paragraph 189 of the NPPF states that where a site has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.
- 9.46. Policy ESD15 of the CLP 2031 Part 1 echoes this guidance. Policy Villages 2 requires consideration to be given to whether significant adverse impact on heritage can be avoided.
- 9.47. Saved Policy C25 states that in considering proposals which affect the setting of a Scheduled Ancient Monument the Council will have regard to the desirability of maintaining its overall historic character.

Assessment

- 9.48. The proposed development is located within the setting of Deddington Castle which is a Scheduled Ancient Monument (SAM). This is a designated heritage asset in the context of the NPPF. This is an earthwork motte-and-bailey castle, with separate baileys either side of a central motte, which dates back to the eleventh or twelfth century. The Castle Grounds represent the west bailey with a central motte. The eastern bailey is roughly equal in area to the main bailey with evidence of late medieval fishponds or quarries. Historic England states it is nationally important and is one of the best-preserved earthworks relating to the period in Oxfordshire. Unlike other similar castles, it appears to have been located remotely from the original village of Deddington. The isolation from the village may be connected with its status as the location of the lead site of an estate. Whether deliberate or not, the setting of the asset remains largely open countryside to much of its boundaries. The castle has illustrative value in demonstrating how the Normans dominated the surrounding landscape and the existing open setting of the castle contributes to that significance. This assessment was agreed with by a Planning Inspector in dismissing an appeal to the west of the site (13/01941/OUT refers).
- 9.49. Whilst there are instances of more modern development which have encroached onto the open space around the castle, with the result that the natural buffer between the village and castle has been eroded, these are not considered to be

positive aspects and are not considered to justify further harm to the setting of the Castle. The proposal would impact on the open setting of the Castle to the north and diminish its sense of isolation from the village. Given the proximity and topography of the area views would be available from the Castle towards the site, which would lead to an urbanisation of the setting. Whilst many views would be filtered through vegetation, the presence of the development would still be visible. The inter-visibility would be higher and more prominent in winter months when the filtering effect of the deciduous vegetation would not be as effective as in summer months. This is also true of any additional planting the applicant proposes to the southern boundary in an attempt to screen the development. Historic England has also pointed to the fact that in the future the management of the SAM is also likely to result in the removal of some of the screening. In addition to the above the likely density of the site would result in the built form of the dwellings being more prominent than the existing housing to the west of the site, which would further exacerbate the harm from the development in respect of the open and detached setting of the SAM. Further harm to the setting of the SAM would also occur from Chapmans Lane to the south of the site where the prominence of the Castle and isolation can be appreciated by users of the public right of way.

- 9.50. However, it is accepted that the site forms only part of the setting of the castle and the significance of the castle includes factors other than the values associated with its setting. Therefore, the overall harm to the significance of the Castle would be *'less than substantial'* in the context of the NPPF. That is not to say that it would be unimportant. Substantial harm could only likely be caused to the SAM through alteration to/impact on the physical monument. The NPPF advises that *any* harm to heritage assets requires clear and convincing justification and great weight should be given to the asset's conservation. Paragraph 134 of the NPPF requires the harm to be balanced against the public benefits of the scheme.
- 9.51. The SAM also forms part of the Conservation Area and it is considered that for the same reasons the proposal would harm the significance of the Conservation Area through change to its setting. There is also considered to be further harm to the setting of the Conservation Area in respect of the impact of the development on the rural setting of the village. The site is located at the edge of the village and the existing approach has a strong rural character and appearance which positively contributes to the rural setting of the Conservation Area. The urbanisation of the site and the loss of openness, including some views out to the wider countryside, would erode this rural approach. Furthermore, given the proposed development's detached siting away from the main settlement form, alongside its density and likely layout, it is considered the development would appear incongruous within its immediate context and within the rural approach to the Conservation Area.
- 9.52. In the current application further harm to the Conservation Area would also be caused by the proposed works to the highway including the provision of the upgraded and new footpath and the provision of a crossing point on the grass island between Clifton Road and Earls Lane. These would all result in urbanising impacts through the loss of grass verges.
- 9.53. Overall, therefore, the proposal would result in harm to the setting of the Deddington Castle and the Conservation Area. This harm would be *'less than substantial'* in the context of the NPPF but carries great weight in determining the application. In accordance with paragraph 196 of the NPPF this harm needs to be weighed against the public benefits of the proposal which is undertaken in Section 10 of this report in considering the planning balance.
- 9.54. The earlier application was also refused as it was considered there was a possibility that the site contained archaeological assets given its historic constraints. In the

absence of any specific field evaluation to explore the archaeological potential of the site the proposal was considered to provide inadequate information to make an informed assessment on this matter.

- 9.55. The applicant has now undertaken archaeological evaluation of the site which has included a number of trial trenches being dug across the site and evaluated. This concludes that limited archaeological remains were found on site and they would not be a significant constraint to developing the site. The County Archaeologist comments are awaited on this matter but it is understood from informal discussions that this issue is likely to be overcome and as such, on the expectation that this is the case, the refusal reason on archaeology from the previous refusal is not included in the current recommendation.

Highway safety

- 9.56. Policy ESD15 of the Cherwell Local Plan Part 1 states that: *“New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions.”* Policy SLE4 states that: *“All development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported.”* The NPPF advises that development should provide safe and suitable access for all and development should only be prevented or refused on transport grounds where the residual cumulative impacts are severe.

Assessment

- 9.57. The development would include a new access from Clifton Road to serve the new housing. This would be located in approximately the same location as the existing agricultural access. The local highway authority (LHA) raises no objection to the details of the access proposed which is considered to be acceptable.
- 9.58. The application site lies within a 40mph limit. However, speed surveys have been carried out at the site over a week which show that vehicles travel in excess of the posted speed limit with the 85th percentile speeds being 53mph eastbound and 48.6mph westbound. The originally submitted plans did not show the full extent of the visibility splays and the LHA has requested further details on the visibility splays which have now been submitted by the applicant. These appear to show that adequate visibility can be achieved for the recorded speed surveys at the site; however, formal comments are awaited from the LHA on this matter.
- 9.59. The LHA had also requested that, due to the straight alignment of Clifton Road and the recorded speeds, consideration be given to traffic calming in order to force traffic to reduce speeds on the approach to the proposed site access. The applicant has queried the need for this as it considers appropriate visibility splays are available at the access for the recorded speeds. It has, however, indicated willingness to enter into an agreement to provide some form of physical traffic calming measure to help reduce vehicle speeds as a wider public benefit of the scheme. However, given that it appears that this is not required to make the development acceptable in planning terms and is looking to remedy a pre-existing situation it is considered that the weight that can be given to this matter is limited as it would not appear to meet the CIL tests (i.e. necessary to make the development acceptable in planning terms) .
- 9.60. The LHA has raised no objection to the application on the basis of traffic generation on the capacity of the local highway network and given the scale of the proposal it is

not considered that the proposal could be regarded to lead to severe highway impacts on the wider road network.

- 9.61. The LHA's concerns regarding access to the village services and facilities are outlined elsewhere in this report so are not covered here and will be updated to committee.

Impact on neighbouring amenity

- 9.62. Policy ESD 15 of the CLP 2031 (Part 1) requires new development to consider the amenity of both existing and future occupants, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space. The New Residential Development Design Guide (SPD) also provides advice in this respect.
- 9.63. The proposed development would be located away from many of the surrounding residential properties. The property which would be most significantly impacted upon by the proposal is the dwelling immediately to the east of the site, The Fishers. This property contains a first floor bedroom window facing over the western boundary of the site which the occupier of this property has stated is the only window serving this bedroom. The indicative layout plan shows the side elevation of the proposed dwelling within 12 metres of this windows which is likely to result in an unacceptable loss of outlook to this property as the Council would normally require 14 metres. It would also not be ideal to have the private amenity space of the proposed dwelling being overlooked by this existing window. The layout is only indicative and could potentially be amended to address this issue and therefore does not form a reason for refusal. However, it does raise further concerns with officers regarding the layout of the site and the relationship with the village and how the development would accommodate the number of dwellings proposed.
- 9.64. Concerns have also been raised from the occupier of the property on the opposite side of Clifton Road at the entrance to the site. They raise concerns that the proposed development would lead to noise and disturbance, including headlights of vehicles using the access shining into their windows, given the position of the access. Whilst it is noted that there would be some impact on this property in this respect, this is not an uncommon occurrence in a semi-rural environment and is not considered to be a matter which would justify refusal of the application.
- 9.65. Concerns regarding the amenity of future residents in respect to access to amenity space and play space are outlined elsewhere in this report.

Affordable Housing and Housing Mix

- 9.66. Policy BSC3 of the Cherwell Local Plan (2011-2031) states that development on the site should make provision for 35% affordable housing with 70% of the affordable housing to be affordable rent and 30% as intermediate homes such as shared ownership. Policy BSC4 states that new development will be expected to provide a mix of home to meet current and expected future demand creating socially mixed and inclusive communities.
- 9.67. The applicant has committed to providing 35% affordable housing on the site in line with Policy BSC3 which equates to 5 dwellings on the site. The detailed housing mix would be determined at reserved matters stage and at the current time the plans are only indicative. The Council's housing officer has raised no objection to this and has provided a suggested mix but has noted these should be spread over the site and be tenure blind. Concerns regarding the indicative layout are already outlined elsewhere in this report. Full details of the mix of the market and affordable housing would be determined at reserved matters stage. The affordable housing would need

to be secured by a legal agreement, which has not be pursued at the current time given the other concerns. However, in the absence of such a legal agreement the proposal is contrary to Policy BSC3 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance in the NPPF.

Flooding Risk and Drainage

- 9.68. Policy ESD6 of the CLP 2015 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding. Policy ESD7 of the Local Plan requires the use of Sustainable Urban Drainage Systems (SUDS) to manage surface water drainage. This is all with the aim to manage and reduce flood risk in the District.
- 9.69. The current site is situated wholly within Flood Zone 1 which is land which has a less than 1 in 1,000 annual probability of river flooding.
- 9.70. The applicant has submitted a Drainage Strategy, which includes a concept drainage scheme including the use of permeable paved areas with storage areas beneath, water butts and rainwater gardens to manage surface water. Infiltration testing was undertaken at the site, which concludes that infiltration drainage techniques would not be suitable for the site given the impermeable nature of the underlying land. It is therefore proposed to connect the drainage to the ditch to the east of the site which is in the applicant ownership and discharge at greenfield runoff rate.
- 9.71. The Lead Local Flood Authority (LLFA) has objected to this as it considers there is insufficient information to undertake a technical assessment of the proposal. Further details have been submitted from the applicant and comments are awaited and will be provided in a written update. If the LLFA did continue to object then the drainage refusal reason for the previous application would need to be added to the recommendation on the current application.
- 9.72. In relation to foul drainage it is understood that the developments immediately adjacent to the site is not connected to the main sewer. The drainage strategy notes that there is a public foul sewer approximately 125m to the west of the site and states that the foul drainage from the proposal will be discharged to this. Based on the local topography a pumped solution would be required, which would require a pump in the south eastern extent of the site and require a 10m easement from dwellings. Thames Water has raised no objection to the development in regard to foul water sewage or water network provision and the development is therefore considered to be acceptable in that regard.

Ecology

Legislative context

- 9.73. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.

- 9.74. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.
- 9.75. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:
- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
 - (2) That there is no satisfactory alternative.
 - (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

Policy Context

- 9.76. Paragraph 170 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 9.77. Paragraph 175 states that when determining planning applications, local planning authorities (LPAs) should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 9.78. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.79. These policies are both supported by national policy in the NPPF and, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.80. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that LPAs should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development.

Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Assessment

- 9.81. The current application has been accompanied by an Ecological Appraisal which has been considered by the Council's Ecologist (CE). The site is not subject to any statutory or non-statutory designations. The CE is satisfied that there are no significant protected species issue on this site and the suggested mitigation measures in the report are all appropriate including those to avoid disturbance to mammals, reptiles and birds. A separate lighting strategy would be required which can be secured through condition. The proposals do, however, result in the loss of some semi-improved grassland which, whilst not of high ecological value, would result in a loss to biodiversity. There do not appear to be any particular measures taken within the illustrative layout to create new habitat and achieve a net gain for biodiversity on site, which local policy and national policy support. Currently there is no clear demonstration that a net gain would be achieved. Given the size of the site it is considered that a planning condition could be used to ensure that any reserved matters that came forward demonstrated a net gain in biodiversity
- 9.82. The ecological appraisal makes a number of suggestions for features of enhancement within the built environment which could contribute to preventing a net loss in opportunities for wildlife and should be incorporated – such as bat boxes, integrated swift bricks, hedgehog highways and invertebrate friendly planting. The details of these could be secured through a Landscape and Ecological Management Plan.

Impact on Local Infrastructure

Policy Context

- 9.83. Policy INF1 of the CLP 2015 states that: *“Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.”*
- 9.84. Policy BSC11 of the CLP 2015 states that: *“Development proposals will be required to contribute to the provision of open space, sport and recreation, together with secure arrangements for its management and maintenance. The amount, type and form of open space will be determined having regard to the nature and size of development proposed and the community needs generated by it. Provision should usually be made on site in accordance with the minimum standards of provision set out in ‘Local Standards of Provision – Outdoor Recreation’. Where this is not possible or appropriate, a financial contribution towards suitable new provision or enhancement of existing facilities off site will be sought, secured through a legal agreement.”* Policy BSC12 requires new development to contribute to indoor sport, recreation and community facilities.
- 9.85. The Developer Contributions Supplementary Planning Document (SPD) sets out the position in respect of requiring financial and on-site contributions towards ensuring the necessary infrastructure or service requirements are provided to meet the needs of development, and to ensure the additional pressure placed on existing services and infrastructure is mitigated. This is the starting point for negotiations in respect of completing S106 Agreements.

Assessment

- 9.86. Where on and off-site infrastructure/measures need to be secured through a planning obligation (i.e. legal agreement) they must meet statutory tests set out in regulation 122 of the Community Infrastructure Ley (CIL) Regulations 2010 (as amended). These tests are that each obligation must be:
- a) Necessary to make the development acceptable in planning terms;
 - b) Directly related to the development;
 - c) Fairly and reasonably related in scale and kind to the development.
- 9.87. Where planning obligations do not meet the above statutory tests, they cannot be taken into account in reaching a decision. In short, these tests exist to ensure that local planning authorities do not seek disproportionate and/or unjustified infrastructure or financial contributions as part of deciding to grant planning permission. Officers have had regard to the statutory tests of planning obligations in considering the application and Members must also have regard to them to ensure that any decision reached is lawful.
- 9.88. The proposed development requires the provision of general amenity green space (approx. 0.1ha) and a local area of play (100 sq m activity zone – 400 sq m including buffer) in accordance with the minimum standards of provision outlined in Policies BSC10 and BSC11 of the Cherwell Local Plan to meet the needs of the new residents. The indicative layout makes no provision for either of these areas of open space and therefore the proposal would fail to make adequate provision for new residents in this respect. The applicant has stated that a financial contribution could be made to enhance facilities elsewhere but given the distances to other facilities and detached relationship of the site from the settlement this is not considered to be appropriate on this site and on-site provision should be made instead. Therefore, based on the current submission the proposal fails to comply with Policy BSC10 and BSC11 of the Cherwell Local Plan and advice in the NPPF in this respect.
- 9.89. In the event that Members were to resolve to grant planning permission, the following items would in officers' view need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts:

Cherwell District Council (all index linked)

- Provision of and commuted sum for maintenance of open space (existing mature trees -£198.82 per tree, hedgerow - £20.49m2, informal open space/landscape buffers - £9.74m2, balancing pond - £50.98m2)
- Provision of local play area of play and maintenance costs
- Off-site outdoor sports facilities capital provision – £28,238.42
- Off-site indoor sports facilities - £11,689.26
- Community hall facilities - £18,831.08
- £106 per dwelling for bins
- Affordable housing provision – 35%

Oxfordshire County Council (index linked and subject to final housing mix)

- £19,863 early years provision at Deddington Partnership Foundation Stage Unit
- £89,405 primary school provision at Christopher Rawlins CE School
- £73,979 secondary school provision at The Warriner School
- S278 Agreement will be required to secure mitigation/improvement works, including:

- Formation of a new site access
- Provision / improvements to footpath to village centre

9.90. CDC's Developer Contributions SPD states that new residential development will be expected to contribute towards the provision of additional health care infrastructure generated by its population growth where there is insufficient existing capacity, well located to serve the development. Whilst the Oxfordshire Clinical Commission Group has been consulted, it has not made comments other than to indicate it is only likely to comment on larger applications. Thus, officers do not consider that they can request contributions towards health care infrastructure.

Conclusion

9.91. A number of items would need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts. Given the application is not acceptable for other reasons these matters have not be progressed. In the absence of a legal agreement to secure these matters the proposal is therefore contrary to Policies INF1, PSD1, BSC3, BSC10 and BSC11 of the Cherwell Local Plan (2011-2031) Part 1, the Developer Contributions SPD (2018) and Government guidance contained within the National Planning Policy Framework.

Other Matters

9.92. Saved Policy ENV12 of the CLP1996 sets out that development on land which is known or suspected to be contaminated will only be permitted if

- (i) Adequate measures can be taken to remove any threat of contamination to future occupiers of the site.
- (ii) The development is not likely to result in contamination of surface or underground water resources
- (iii) The proposed use does not conflict with other policies in the plan.

9.93. The site is on land which is potentially contaminated and the Council's Environmental Protection Officer (EPO) has therefore recommended that phased contaminated land conditions need to be attached should permission be granted. Officers agree with this assessment.

9.94. Regarding air quality, the Council's EPO requests that ducting is provided for the future installation of Electric Vehicle charging infrastructure in order to make residents parking places EV ready for future demand. The NPPF and Policies SLE4 and ESD1 of the CLP 2015 encourage and support the incorporation of measures into new development that promote more sustainable forms of transport. The provision of EV charging infrastructure is also reflected in the Council's Infrastructure Delivery Plan. It is considered reasonable and necessary for this to be secured through a condition of any permission given. The EPO has also requested the submission of an Air Quality Impact Assessment. However, given the relatively small scale of the scheme and the fact it would not impact directly on an Air Quality Management Area this is not considered to be proportionate or required. Furthermore, it is noted that such a request was not made on the earlier application on the site.

9.95. Policy ESD1 of the CLP 2031 states that measures should be taken to mitigate the impact of development within the District on climate change, and Policy ESD2 of the CLP 2031 seeks to achieve carbon emission reductions. Policy ESD3 of the CLP 2031 encourages sustainable construction methods. The reference to allowable

solutions in Policy ESD2 and 'zero carbon' are no longer being pursued by the government so are no longer relevant. However, the water usage requirements of ESD3 are still required to be met. In regard to energy efficiency the Council now seeks to secure in excess of that required under the 2013 Building Regulations. These matters could be controlled through a condition.

- 9.96. In relation to the best and most versatile agricultural land, which is one of the criteria in Policy Villages 2, the site lies within an area identified as potentially BMV. No information has been submitted from the applicant in respect of this. The development could therefore result in the loss of this land for agriculture and this harm weighs against the development in the planning balance.
- 9.97. The proposal would also be low density and not make efficient use of land which is a further factor weighing against the development.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The planning system seeks to achieve social, economic and environmental objectives in mutually supportive ways to achieve sustainable development. In this application the proposed development is considered to be contrary to the Development Plan and NPPF when read as a whole.
- 10.2. The main policy against which to consider the application is Policy Villages 2 (PV2) and the criteria within. While in the case of Deddington, at this time, it is considered that the proposal would not conflict with the principle of providing a total of 750 dwellings at Category A villages, in this instance when assessed against the subsequent criteria of PV2 the proposed development is not considered to comply with the Development Plan. The proposal would result in harm to the setting of the scheduled ancient monument and the setting of the Conservation Area. This harm is '*less than substantial*' in terms of the NPPF but any harm to heritage assets carries great weight against the proposal. It would also fail to contribute to enhancing the built and natural environment, be poorly related to the pattern of development in the locality, harmful to the character and appearance of the area and setting of the village and result in a harmful visual intrusion to the open countryside. It would use land potentially identified as best and most versatile agricultural land and is not previously developed land. Further weighing against the development is the poor quality of pedestrian links to the villages' services, facilities and public transport. The proposal would also fail to provide sufficient amenity space and play space for the future residents and in the absence of a legal agreement the impacts on local infrastructure and provision of affordable housing would not be secured.
- 10.3. In this case the public benefits of the scheme include the economic and social benefits associated with the provision of 14 new dwellings including 5 affordable units, which attracts significant weight. Were it not considered to have adverse visual effects, some positive weight could have been attributed towards the public footpath link proposed along Earls Lane which would benefit existing residents of the village as well as those of the proposed development. The applicant also argues that the offer of providing traffic calming is a further public benefit in favour of the development. However, whilst this may be desirable given that it does not appear that it is required to make the development acceptable in planning terms it is not considered this matter can be given weight in the planning balance
- 10.4. The Council can demonstrate an appropriate housing land supply and significant progress has been made on the rural housing allocations of 750 dwellings under Policy Villages 2, which moderates the benefits of the scheme in this respect. Overall the totality of the benefits are not considered to outweigh the harm arising from the scheme. The proposed development is therefore not considered to

represent a sustainable form of development or comply with the Development Plan when read as a whole and it is therefore recommended that planning permission be refused.

11. RECOMMENDATION

RECOMMENDATION - **REFUSAL** FOR THE REASONS SET OUT BELOW

By virtue of its poorly integrated relationship with existing built development, its extension beyond the built limits of the village and its scale and location, the proposed development would cause significant and demonstrable harm to the character and appearance of the area and the rural setting of the village and would fail to reinforce local distinctiveness. For the same reasons the proposal would also result in *'less than substantial'* harm to the setting of the nearby Scheduled Ancient Monument and Conservation Area and the harm stemming from the proposals is considered not to be outweighed by any public benefits. The proposal is therefore contrary to Policies ESD13, ESD15 and Villages 2 of the Cherwell Local Plan (2011-2031) Part 1, saved Policies C28 and C33 of the Cherwell Local Plan 1996, Cherwell Residential Design Guide SPD (2018) and Government guidance contained within the National Planning Policy Framework.

The development proposed, by reason of its relationship and poor pedestrian connections to the centre of the village and service and facilities (including bus stop) and taking into account (i) Cherwell District Council's ability to demonstrate an up-to-date housing land supply and (ii) the harm to the character and appearance of the area and that of the Conservation Area of providing the infrastructure necessary to address these issues with regard to connectivity, would not provide good access to services and facilities and public transport in the interests of reducing the need to travel and promoting sustainable transport options. The proposal is therefore contrary to Policies ESD1, SLE4 and Villages 2 of the Cherwell Local Plan (2011-2031) Part 1, and Government guidance contained within the National Planning Policy Framework.

In the absence of the completion of a satisfactory Planning Obligation, the Local Planning Authority is not convinced that the necessary infrastructure (including education, open space, sports facilities, community facilities, highway infrastructure and affordable housing) directly required as a result of this development, in the interests of supporting the sustainability of the village and the development, mix and balanced communities, and in the interests of safeguarding public infrastructure and securing on site future maintenance arrangements, will be provided. This would be contrary to Policies INF1, PSD1, BSC3, BSC10 and BSC11 of the Cherwell Local Plan (2011-2031) Part 1, the Developer Contributions SPD (2018) and Government guidance contained within the National Planning Policy Framework.

NB. These are substantially the same Refusal Reasons as Nos. 1, 2 and 6 of 19/00831/OUT.

NB. Depending on consultee responses, Refusal Reasons 3, 4 and 5 of 19/00831/OUT may be added to this recommendation.