

Case Officer: Wayne Campbell

Applicant: Malvern Homes Limited

Proposal: The erection of 18 dwellings and access road

Ward: Adderbury, Bloxham and Bodicote

Councillors: Cllr Bishop, Cllr Hingley, and Cllr Nell

Reason for Referral: 10 or more dwellings

Expiry Date: 14 February 2022

Committee Date: 8 December 2022

SUMMARY OF RECOMMENDATION: DELEGATE POWERS TO GRANT PERMISSION SUBJECT TO: (i) NO OBJECTIONS FROM ECOLOGY OFFICER AND CONFIRMATION OF SUSTAINABILTY MEASURES, (ii) CONDITIONS, AND (iii) PLANNING OBLIGATION

1. APPLICATION SITE AND LOCALITY

- 1.1. The site consists of an area of previously undeveloped land to the rear and west of the Seccombe Court Care Home. Immediately to the south of the site is an area of car parking associated with residential properties within Janet Blunt House, which sits further to the south.
- 1.2. To the west and north lies open countryside while the site is bounded by mature hedgerows and trees and post and rail fencing to the north and south, with post and wire fencing and newly planted landscaping to the western boundary. The site is accessed off the Oxford Road via a junction constructed as part of Seccombe Court Care Home.

2. CONSTRAINTS

- 2.1. The application site is within is located within the confines of Adderbury village as shown within the Adderbury Neighbourhood Plan. The site also includes a public right of way running east – west and along the northern section of the site.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks planning permission for the development of the site for 18 dwellings with associated access road.
- 3.2. *Timescales for Delivery:* The applicant/agent has not advised as to when, in the event that planning permission is granted, development would commence.

4. RELEVANT PLANNING HISTORY

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

13/01672/HYBRID

Full Planning - Site A - Phase 1 - Construction of a 60 bedroom elderly nursing home (Use Class C2) with associated access, new public footpath, parking, landscaping, tree planting, ecological enhancement measures and site infrastructure **Outline** - Site B - Phase 2 - Construction of extra care facility of up to 3,450 sq m (GIA) (Use Class C2) with associated circulation, new public footpath, parking, landscaping, tree planting, ecological enhancement measures and site infrastructure Permitted

16/00675/F

Variation of Condition 5 of 13/01672/HYBRID
Permitted

17/00777/REM

Reserved Matters to 13/01672/HYBRID - Layout, scale, appearance, access and landscaping of the site
Permitted

17/00802/F

The construction of a 36xno. bedroom specialist nursing facility (associated with dementia care and neurological rehabilitation) (Use Class C2) with associated access, parking, landscaping and tree planting
Permitted

20/01845/OUT

Erection of up to 9no residential dwellings (Use Class C3) and associated access, with all other matters reserved
Withdrawn

5. PRE-APPLICATION DISCUSSIONS

5.1. The following pre-application discussions have taken place with regard to this proposal:

19/02919/PREAPP: Erection of 21 residential units (use class C3) and associated landscaping and car parking.

Whilst the principle of developing the site for additional residential development may be acceptable, this would be on the basis of acceptable design solution being brought forward that would be of an appropriate density, design and scale for this village location; and further proposals being considered acceptable in all other aspects including highway safety and impacts on the natural environment. For the reasons set out in the response, any future planning application for the proposals subject of this enquiry could not be considered favourably.

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 **9 July 2021**.

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

- Loss of area of open space used by dog walkers
- Disruptive to elderly residents in the care home
- Impact on local wildlife
- Too many units on the site resulting in no amenity space, no affordable housing and lack of car parking
- Increase in local traffic to detriment of area
- Question level of parking spaces and if garages will be large enough for modern cars
- No demand for additional housing but need for elderly residential care housing

6.3. 3 representations have been received: 3 objecting, none supporting and no comments. 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. ADDERBURY PARISH COUNCIL: **Objection.**

The proposal is an over development of the site and would detract from the adjacent care home facility. The site does not provide enough communal / community open space within development. Due to close proximity of development to care home would adversely affect residents in rooms which overlook the west boundary and also the roadway on the north side. Rooms on the ground floor on the north side would be especially affected as there would be increased traffic, both vehicular and pedestrian, along this footpath, access road and onto busy A4260.

No provision of affordable housing contrary to Cherwell District Council's policy which requires applications of 11+ homes to include a percentage of affordable. Although site is within the Adderbury Neighbourhood Development Plan's settlement boundary, this was allowed when the NDP was written because there was an existing outline permission for an extension to the Seccombe Court Care Home.

Application would remove trees planted as a screen for the Care Home under that particular permission. These trees are now 15-20 feet high and should not be removed. There is no proper screening suggested on the west boundary (where the above trees have been provided) nor on the north boundary, where proposal seeks to remove tall fir trees currently forming a boundary. Proposal provides only a 2.5m strip of vegetation by way of screening but should be at least a 10m wide of planted woodland.

Site is prominent on the horizon and both Greenhill House and the Care Home can be viewed from across the Sor Brook valley and Adderbury Circular Walk, in spite of the screening which is in place. *Object to adding further housing/development which will detract from the amenity value of the Public Rights of Way across the Sor Valley and will be potentially even more damaging since it will include the 'back garden paraphernalia' associated with housing developments.* Dwellings too tall and any

further development should be kept lower to avoid being seen from the open countryside.

Applicant has not offered any community benefit to Adderbury to mitigate impact of proposed development. Parish Council is currently engaged in providing new community and sports facilities on Milton Road which will serve all of the Parish, including any new developments. Funding towards this project should form part of a Section 106 agreement.

OTHER CONSULTEES

- 7.3. OCC HIGHWAYS: **No objections** subject to conditions and S106 contributions
- 7.4. OCC LOCAL LEAD FLOOD AUTHORITY: **No objections** subject to conditions.
- 7.5. OCC EDUCATION: **No objections** subject to S106
- 7.6. OCC ARCHAEOLOGY: **No objections** subject to conditions
- 7.7. CDC LAND DRAINAGE: **No comments** to make
- 7.8. CDC ARBORICULTURAL OFFICER: **No objections** subject to conditions
- 7.9. CDC BUILDING CONTROL: **No comments** to make
- 7.10. CDC ENVIRONMENTAL PROTECTION OFFICER: **No objections** subject to conditions
- 7.11. CDC ECOLOGY OFFICER: **Objection**, request further information
- 7.12. NATURE SPACE PARTNERSHIP: **No objections**
- 7.13. CDC RIGHTS OF WAY OFFICER: **No objections** subject to condition
- 7.14. THAMES WATER: **No objections** subject to conditions
- 7.15. CDC LANDSCAPE OFFICER: **Objection** to removal of 2.5m landscape buffer / trees.
- 7.16. CDC STRATEGIC HOUSING OFFICER: No comments received
- 7.17. CDC PLANNING POLICY: No comments received
- 7.18. CDC WASTE & RECYCLING: No comments received
- 7.19. RAMBLERS ASSOCIATION: No comments received

8. RELEVANT PLANNING POLICY AND GUIDANCE

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

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2015)

- PSD1 – Presumption in Favour of Sustainable Development
- SLE4 – Improved Transport and Connections
- BSC1 – District Wide Housing Distribution
- BSC2 – The Effective and Efficient Use of Land
- BSC3 – Affordable Housing
- BSC4 – Housing Mix
- BSC8 – Securing Health and Wellbeing
- BSC9 – Public Services and Utilities
- 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
- ESD5 – Renewable Energy
- ESD6 – Sustainable Flood Risk Management
- ESD7 – Sustainable Drainage Systems
- 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
- Policy Villages 1 – Village Categorisation
- Policy Villages 2 – Distributing Growth across the Rural Areas
- INF1 - Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development
- C30 – Design control
- ENV1 – Development likely to cause detrimental levels of pollution
- ENV12 – Development on contaminated land

8.3. Under Section 38 of the Planning and Compulsory Purchase Act 2004, a Neighbourhood Plan that has been approved at referendum also forms part of the statutory development plan for the area. In this case, the application site falls within the Adderbury Neighbourhood Plan and the following Policies of the Neighbourhood Plan are considered relevant:

- AD1 – Adderbury Settlement Boundary
- AD2 – Green Infrastructure
- AD19 - Community Assets & Local Services

8.4. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide SPD (2018)
- Developer Contributions SPD (2017)
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)

9. APPRAISAL

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

- Principle of development
- Design, and impact on the character of the area
- Highway Impact
- Residential amenity
- Drainage
- Ecology impact
- S106
- Sustainability

Principle of Development

National Planning Policy Framework (NPPF)

9.2. The NPPF explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

9.3. Paragraph 10 of the NPPF states that *so sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development.* Paragraph 11 defines the presumption in favour of sustainable development as *approving development proposals that accord with up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: the application of policies in this Framework*

that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

- 9.4. Paragraph 12 also advises, amongst other things that the *presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. The NPPF also states that a Local Planning Authority may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.*
- 9.5. Section 5 of the NPPF covers the issue of delivering a sufficient supply of homes, and paragraph 60 states that *to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.*
- 9.6. Paragraph 73 highlights the need for Local Planning Authorities (LPAs) to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period). Paragraph 74 continues by stating that *a five-year supply of deliverable housing sites, with the appropriate buffer, can be demonstrated where it has been established in a recently adopted plan, or in a subsequent annual position statement which:*
- a) has been produced through engagement with developers and others who have an impact on delivery, and been considered by the Secretary of State; and*
 - b) incorporates the recommendation of the Secretary of State, where the position on specific sites could not be agreed during the engagement process.*

Development Plan

- 9.7. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for this area comprises the adopted Cherwell Local Plan 2011-2031 (CLP 2015) and the saved policies of the Cherwell Local Plan 1996 (CLP 1996).
- 9.8. Policy PSD 1 of the CLP 2015 states that *when considering development proposals, the Council will take a proactive approach to reflect the presumption in favour of sustainable development contained in the National Planning Policy Framework. The policy continues by stating that planning applications that accord with the policies in this Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise. Paragraph B88 of the CLP 2015 also highlights that by focusing development in and around the towns of Bicester and Banbury we aim to ensure that the housing growth which the District needs only takes place in the locations that are most sustainable and most capable of absorbing this new growth.*
- 9.9. In terms of affordable housing provision Policy BSC3 of the CLP 2015 states that *all proposed developments that include 11 or more dwellings (gross), or which would be provided on sites suitable for 11 or more dwellings (gross), will be expected to provide*

at least 35% of new housing as affordable homes on site. The Policy continues by stating that should the promoters of development consider that individual proposals would be unviable with the above requirements, 'open-book' financial analysis of proposed developments will be expected so that an in-house economic viability assessment can be undertaken. Where it is agreed that an external economic viability assessment is required, the cost shall be met by the promoter. Where development is demonstrated to be unviable with the above requirements, further negotiations will take place. These negotiations will include consideration of: the mix and type of housing, the split between social rented and intermediate housing, the availability of social housing grant/funding and the percentage of affordable housing to be provided.

- 9.10. Policy BSC1 of the CLP 2015 states that *Cherwell District will deliver a wide choice of high-quality homes by providing for 22,840 additional dwellings between 1 April 2011 and 31 March 2031. 1,106 completions were recorded between 2011 and 2014 leaving 21,734 homes to be provided between 2014 and 2031.*
- 9.11. Policy BSC4 of the CLP 2015, which covers the issue of providing housing mix on new development, states that *new residential development will be expected to provide a mix of homes to meet current and expected future requirements in the interests of meeting housing need and creating socially mixed and inclusive communities.*
- 9.12. The CLP 2015 seeks to allocate sufficient land to meet District Wide Housing needs. The overall housing strategy is to focus strategic housing growth at the towns of Banbury and Bicester and a small number of strategic sites outside of these towns. With regards to villages, the Local Plan notes that the intention is to protect and enhance the services, facilities, landscapes and natural and historic built environments of the villages and rural areas. It does however advise that there is a need within the rural areas to meet local and Cherwell-wide needs.
- 9.13. Cherwell's position on five-year housing land supply is reported in the Council's 2021 Annual Monitoring Report (AMR). The 2021 AMR concludes that the District can demonstrate a 3.5 years supply for the current five year period 2022-2027 a shortfall equal to 2,255 houses for the period 2022-2027. The calculations also highlight that there as a consequence of the local plan and SHMA period being from 2011 onwards (pre-dating adoption of the Local Plan in 2015) and completions being lower at the start of the Plan period there is a 'shortfall' of some 1,264 homes for the period 2011 to 2021 which must be made up.
- 9.14. In terms of Category A villages, the 2021 AMR shows that 749 dwellings are either completed or under construction on sites with planning permission for 10+ dwellings at Category A villages. During 2020/21 there were 88 dwellings completed at Category A villages that contribute to the Policy Villages 2 requirement of 750 dwellings. There are also 246 dwellings that are under construction from the supply of permitted sites and are likely to be delivered in the short term. Between 1 April 2014 and 31 March 2021 there were a total of 503 net housing completions on the Policy Villages 2 sites which is an average of 71 homes per year. The AMR continues by highlighting that *Since 1 April 2014 a total of 1,062 dwellings have been identified for meeting the Policy Villages 2 requirement of 750 dwellings. These are included in the Housing Delivery Monitor in Appendix 2. Policy Villages 2 requirement has already been exceeded by 312 dwellings when considering the planning permissions and identified sites without planning permission in the above (749+287+26).*
- 9.15. Section E of the CLP 2015 concerns the monitoring and delivery of the Local Plan. Paragraph E.19 states that *if the supply of deliverable housing land drops to five years or below and where the Council is unable to rectify this within the next monitoring year there may be a need for the early release of sites identified within this strategy or the release of additional land. This will be informed by annual reviews of the Strategic*

Housing Land Availability. In this instance the most recent published review undertaken by the Council is the Housing & Economic Land Availability Assessment (HELAA) (February 2018). This application site was not reviewed in the HELAA and therefore not considered.

- 9.16. Policy Villages 1 of the CLP 2015 provides a framework for housing growth in the rural areas of the district and groups villages into three separate categories (A, B and C), with Category A villages being considered the most sustainable settlements in the District's rural areas which have physical characteristics and a range of services within them to enable them to accommodate some limited extra housing growth. Adderbury is a Category A village.
- 9.17. In order to meet the areas housing needs Policy Villages 2 of the CLP 2015 states that, *a total of 750 homes will be delivered at Category A villages. This will be in addition to the rural allowance for small site 'windfalls' and planning permissions for 10 or more dwellings as at 31 March 2014.* This Policy notes that sites will be identified through the preparation of the Local Plan Part 2, through the preparation of the Neighbourhood Plan where applicable, and through the determination of applications for planning permission.
- 9.18. Policy Villages 2 continues by setting out that when identifying and considering sites, particular regard will be given to the following criteria:
- *Whether the land has been previously developed land or is of less environmental value;*
 - *Whether significant adverse impact on heritage and wildlife assets could be avoided;*
 - *Whether development would contribute in enhancing the built environment;*
 - *Whether best and most versatile agricultural land could be avoided;*
 - *Whether significant adverse landscape impacts could be avoided;*
 - *Whether satisfactory vehicular and pedestrian access/egress could be provided;*
 - *Whether the site is well located to services and facilities;*
 - *Whether necessary infrastructure could be provided;*
 - *Whether land considered for allocation is deliverable now or whether there is a reasonable prospect that it could be developed within the plan period;*
 - *Whether land the subject of an application for planning permission could be delivered within the next five years; and*
 - *Whether development would have an adverse impact on flood risk.*

Adderbury Neighbourhood Plan

- 9.19. Policy AD1 states that *the Neighbourhood Plan defines an Adderbury Settlement Boundary, as shown on the Policies Map. Proposals for infill development within the boundary will be supported, "Development proposals will not be supported outside the Adderbury Settlement Boundary unless it is demonstrated they will enhance, or at least not harm, local landscape character. New isolated homes in the countryside will not be supported except in special circumstances described in paragraph 55 of the Framework. Proposals for the provision of affordable housing on rural exception sites immediately adjacent to the Adderbury Settlement Boundary will be supported where they meet an identified local need and relate well to the built form of the existing settlement"*.

- 9.20. Policy AD2 confirms that the *Neighbourhood Plan defines the Adderbury Green Infrastructure Network around and within the village, as shown on the Policies Map. The Network comprises a variety of green infrastructure assets, including informal open space and Local Green Spaces, allotments, playing fields, assets of biodiversity value and children's play areas, footpaths, bridleways and cycleways. Development proposals on land that lies within or immediately adjoining the defined Network must demonstrate how they maintain or enhance its integrity and green infrastructure value, by way of their landscape schemes, layouts, access and or through equivalent alternative provision nearby.*
- 9.21. The adjoining site of the Seccombe Court Retirement Home is allocated under Policy AD19 as a community asset and local services. This policy states that proposals to *improve the viability of established community use for the following buildings and facilities (by way of the extension or partial redevelopment of existing buildings) will be supported, provided that the scheme does not have a harmful impact on the street scene, and that any resulting increase in use will not harm the amenity of neighbouring properties.* The Policy continues by stating that proposals *that will result in either the loss of, or significant harm to, facilities listed above, will be resisted, unless it can be clearly demonstrated that: i. the operation of the facility, or on-going delivery of the community value of the facility, is no longer financially viable; or ii. it is more appropriate to replace it with a facility of equivalent or better value to the community in an equally convenient location for residents of the Parish.*

Assessment

- 9.22. To a certain degree the principle of development on this site has been considered acceptable with the outline permission and reserved matters approval for the 36no bedroom specialist nursing facility (associated with dementia care and neurological rehabilitation) (Use Class C2) with associated access, parking, landscaping and tree planting. This development has not been implemented and the planning permission has now expired.
- 9.23. The current application now seeks planning permission to development the site for a different type of use in the form of 18 residential units with a mix of dwellings and apartments of sizes from 2, 3, 4 and 5 bed. Access to the development would be off the existing service road to the immediate north of the Seccombe Court Home. The access road would form part of the northern boundary to the site with a bank of mature / semi-mature trees along the northern boundary.
- 9.24. Adderbury is identified in the Local Plan as a sustainable location for meeting defined housing requirements – one of 23 Category A villages intended to provide 750 homes from 2014 to 2031 (Policy Villages 2). The Local Plan reached that conclusion having undertaken a comparative assessment and categorisation of all the district's villages.
- 9.25. Policy Villages 2 sets a total of 750 dwellings for the rural area and provides criteria against which individual proposals are required to be assessed as set out above. The requirement of Policy Villages 2 to provide 750 homes at Category A villages is monitored in the 2021 AMR. Table 39 of the AMR shows that, on 31st March 2021, 749 dwellings had either been completed or were under construction on sites with planning permission. Para. 5.159 of the AMR records that between 1 April 2014 and 31 March 2021 a total of 1,062 dwellings have been identified for meeting the Policy Villages 2 requirement of 750 dwellings. It is therefore clear that the provision of rural housing is healthy, but this is not to suggest that the figure of 750 is a target / ceiling figure and in a number of appeals Inspectors have agreed with this approach to the provision of rural housing in the District.
- 9.26. That the total of 750 will by now have been met is a material consideration when assessing further applications for 'major' developments at the Category A villages.

However, in the context of policy BSC1 and the need to meet overall district housing requirements by 2031, it does not mean that there is a moratorium on future development and, in successive appeal decisions relating to the development proposals in the Cherwell district, Planning Inspectors have held that the total of 750 is not a ceiling and that merely exceeding that total would not result in harm. Furthermore, at the present time there is a need to consider the district's 5-year land supply position. The lack of a 5-year supply renders the Council's policies for housing, including Policy Villages 2, out-of-date, and instead means that a presumption in favour of sustainable development must be applied.

- 9.27. In addition, under paragraph 14 of the NPPF, as it was adopted more than two years ago, the policies within the Adderbury Neighbourhood Plan relating to the supply of housing are to be considered out of date.
- 9.28. The first question to ask is whether the site is a sustainable location for additional development of this scale. The site is on the northern edge of Adderbury, one of the larger villages in the Cherwell district, which has a range of facilities enabling residents to meet their day-to-day needs. Although located at the northern edge of Adderbury village the site has been included within the village boundary for the Adderbury Neighbourhood Plan (on the basis of its permission for care facility) and there is footpath access into the village and bus stops within walking distance and a regular bus service is available from Adderbury.
- 9.29. The proposal would provide a mix of residential units in terms of size and type with houses and apartments. The mix of size will comply with Policy BSC4 of the CLP 2015. Being located within the village boundary the development would comply with the requirements of Policy Villages 1 as a 'Minor Development' which is identified as appropriate type of development in Category A villages. The development would make a contribution towards the level of rural housing in a Category A village.

Conclusion

- 9.30. In the absence of a sufficient supply of land for housing, the Council's development plans for housing are to be considered 'out of date'. The presumption in favour of sustainable development applies. The proposal's effects, on visual amenity, highway safety, ecology and flood risk, etc. are considered in subsequent sections of this report. However, the site is in a geographically sustainable location, with footpaths close-by a range of amenities within the village and regular public transport available from the village, meaning future occupiers of the proposed development would have a realistic choice of travel in order to meet their day-to-day needs.

Design, and impact on the character of the area

- 9.31. Government guidance contained within the NPPF requiring good design states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Further, permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.
- 9.32. Section 12 of the NPPF is clear that good design is a fundamental to what the planning and development process should achieve. Paragraph 130 of the NPPF states that planning decisions should ensure that developments:
- *will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
 - *are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*

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

- 9.33. Saved Policies C28 and C30 of the CLP 1996 exercise control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context. New housing development should be compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.
- 9.34. Policy ESD15 of the CLP 2015 provides guidance as to the assessment of development and its impact upon the character of the built and historic environment. It seeks to secure development that would complement and enhance the character of its context through sensitive siting, layout and high-quality design meeting high design standards and complementing any nearby heritage assets. Section 12 of the NPPF is clear that good design is a fundamental to what the planning and development process should achieve.
- 9.35. Policy BSC2 of the CLP 2015 states amongst other things that new housing should be provided on net development areas at a density of at least 30 dwellings per hectare unless there are justifiable reasons to lower the density. With regards to this current proposal, it is confirmed that the density of the development is at 30 dwellings per hectare which would comply with the requirements of Policy BSC2.
- 9.36. The proposed layout is for a development which fronts onto an internal access road to provide an acceptable street scene. In terms of design the dwellings would be to a mix of styles and designs to provide a high-quality development on the site. The heights of the dwellings vary with a clear / equal split between two storey and two and half storey dwellings where the two and half storey dwellings incorporate dormer windows on the front and rear elevation to allow accommodation within the roof space. Turning to the design of the apartment block on the site this would be to a height of two and half storey with the top floor in the form of dormers on the front and rear elevations to provide the top floor accommodation within the roof space of the building. The footprint of the apartment building would essentially be that of a L – shape with a frontage onto the internal access road and the access to the private car park provided on the main access driveway along the northern boundary.
- 9.37. The use of dormers is not a feature on the Seccombe Court care home, but it is noted that the adjoining, 2.5 storey residential development on Greenhill / Janet Blunt house located to the immediate south the development features flat roof dormers. This adjoining residential development shares a common boundary with the current application site and maintains a surface car park between the boundary and the existing residential units. As such the use of dormers on the proposed scheme would not appear out of place within this part of Adderbury.
- 9.38. The layout does not provide public open space nor an area of play as required under Policy BSC11 of the 2015 CLP the threshold for a LAP is 10 dwellings. However, it is considered that in this instance a contribution towards a local play area / recreation space could be provided by the applicant to off-set this issue. It is accepted that the application is subject to a viability appraisal and that the reduction of units on the site could have impact on the viability of the scheme. In terms of where the money would be spent discussions with Adderbury Parish Council has provided three potential areas in Adderbury for the money. These are improvements to the Lucy Plackett play area, and / or the Rise play area, and/or the new community and sports centre on Milton Road for which it has planning permission, although this development is yet to be started. The three locations are being considered by officers along with the

applicant to establish what work is required and whether the locations are close enough to the proposed development to justify the contribution.

- 9.39. It is noted that the Council's landscape officer objects to the scheme on the grounds that the proposed layout does not accommodate the existing landscape buffer on the western edge of the site which has established trees and was required as part of the original scheme to screening development for the benefit of users of the PRow west of the site. The proposed development would result in the removal of the approved tree belt which are small saplings at the moment and the proposed 2.5 m strip as shown on this part of the site to replace the 10m wide screen buffer is considered inadequate for this purpose. This weighs against the proposal.
- 9.40. Its layout, scale and general design is considered broadly acceptable but, on the basis of the loss of the 10m wide tree belt, the proposal would adversely affect the character and appearance of the area and in this regard the proposal fails to accord with Policy ESD15 of the CLP 2015 and Saved Policies C28 and C30 of the CLP 1996.

Highway impacts

- 9.41. Paragraph 110 of the NPPF states that in assessing specific applications for development, it should be ensured that:
- a) *appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
 - b) *safe and suitable access to the site can be achieved for all users; and*
 - c) *any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

In addition to this paragraph 111 highlights that *development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*

- 9.42. Access to the site would be taken off the existing service road to the north of the site which currently provide access to the existing Seccombe Court care home located on the adjoining site. Once within the site the access road would serve the new development in the form of a cul-de-sac which would ensure the access is not used by anyone other those living / visiting the site.
- 9.43. Parking for each residential dwelling would be provided in the form of on-plot parking with associated integral garages to ensure that on-street parking is kept to a minimum. In terms of the apartment building the parking would be provided in the form of a small private parking courtyard to the rear of the building. Access to this parking area would be off the main access road serving the development and as this access point is directly off the main access road the residential would not need to drive into the main part of the development to access the parking.
- 9.44. The access road would also allow for the continuation of the public right of way across the northern section of the site. This public right of way allow access into the area of open countryside to the west of the site and has a route code of 101/30/10 and route number 30. Members would see that there are no objections to the proposal in terms of impact on the public right of way raised by the Council's Rights of Way Officer.
- 9.45. The Local Highway Authority has no objection to the proposal subject to conditions and contributions to be covered by a S106 agreement. Although there are no issues in terms of the conditions members will see later in this report due to viability issues

the development would not be able to support a S106 for the contributions sought by the County Engineers. OCC has been made aware of the viability issue and requested to confirm that there are no objections where contributions would not be available, although at the time of writing no response to this request has been received. Notwithstanding this it is considered that the development as proposed would not lead to a highway safety issue and therefore a refusal on highway safety could not be supported in this instance.

Residential amenity

- 9.46. Saved Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. These provisions are echoed in Policy ESD15 of the CLP 2015 which states amongst other things that, *new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space.*
- 9.47. In this instance the nearest residential property is the care home to the immediate east of the site with the existing residential development of Greenhill sharing the southern boundary of the site. The proposal would have some impact on the care home to the east specifically the residents' lounge in terms of outlook / views towards the open countryside due to the proposed development. However, the distance between the proposed dwellings and the rear elevation of the care home complies with and exceeds the standards required under the Cherwell Residential Design Guide. Furthermore, the development of this site has already been agreed under the previous hybrid application which has now expired with not dissimilar impacts on the amenities of the care home.
- 9.48. Although the height of the existing care home of Seccombe Court on the adjoining site is at two storeys, the new development at two and half storey is not considered to result in any loss of light, and / or privacy currently enjoyed by the residents of the care home site. It is also accepted that in terms of distance between the proposed dwellings on the site and that of the existing care home the proposal will comply with the minimum standards requires as part of the adopted Cherwell Residential Guide.
- 9.49. Turning to the existing residential development to the south the proposed development would back onto the shared boundary and would allow some overlooking into the surface car park for Greenhill development. The distance between the proposed development and that of the living accommodation in the Greenhill development is to a point that the proposal would have no adverse impact on the residential in terms of any loss of light, outlook or privacy.
- 9.50. Given the above, it is considered that the development would be made acceptable in terms of residential amenity, both for existing residents neighbouring the site and future occupiers.

Drainage

- 9.51. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 163 of the NPPF states that *when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*
- a) *within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*

- b) *the development is appropriately flood resistant and resilient;*
- c) *it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
- d) *any residual risk can be safely managed; and*
- e) *safe access and escape routes are included where appropriate, as part of an agreed emergency plan.*

9.52. Paragraph 165 of the NPPF continues by stating that *major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:*

- a) *take account of advice from the lead local flood authority;*
- b) *have appropriate proposed minimum operational standards;*
- c) *have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and*
- d) *where possible, provide multifunctional benefits.*

9.53. Turning to the Development Plan, Policy ESD6 of the CLP 2015 essentially replicates national policy in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding.

9.54. Policy ESD7 of the CLP 2015 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District.

9.55. The current is situated wholly within Flood Zone 1 which is land which has a less than 1 in 1,000 annual probability of river flooding. Following an initial objection to the scheme from the LLFA, the applicant has revised the drainage details with a detailed drainage strategy within which the applicant has confirmed that a SuDS scheme will be incorporated into the drainage of the site. This will ensure that the development will not result in any flooding of the site nor any flood risk to adjoining land parcels within the area. The LLFA has considered the revised details and confirmed no objections subject to conditions. For this reason, it is considered that the drainage of the site is acceptable and not a reason to refuse the application.

Ecology Impact

Legislative context

9.56. 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.

9.57. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it

has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.

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

- 9.59. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipe-lines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

Policy Context

- 9.60. 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.
- 9.61. Paragraph 175 states, amongst other things, that *when determining planning applications, local planning authorities should apply the following principles:*
- a) *if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
 - d) *development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.*
- 9.62. Policy ESD10 of the CLP 2015 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.63. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal

offence to damage or destroy a breeding site or resting place, unless a licence is in place.

- 9.64. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities (LPAs) should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Assessment

- 9.65. This application is supported by a detailed ecology appraisal as well as a Biodiversity Net Gain Metric. The ecology assessment outlines that the site is an open grass field with a fringe of recently planted mixed native scrub and stock fencing on the west boundary, a hedge and trees on the north boundary, timber feather board fencing along the east boundary, and post and rail fencing along the south boundary. Clearly the development of this site for residential use would result in a loss of natural habitat on the site; however, the development would provide an opportunity for bat and bird boxes on the dwellings to reduce the impact of the development.
- 9.66. Following an objection raised by the Council's Ecology Officer revised details have been submitted by the applicant and are the subject to a re-consultation with the Council's ecology officer. However, at the time of drafting this report no further comments had been received. On the basis that there are no comments received it is considered that the refusal of the application due to ecology impact is not warranted in this instance.

S106

- 9.67. Paragraph 54 of the NPPF states that *local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Paragraph 56 continues by stating that planning obligations must only be sought where they meet all of the following tests:*
- a) *necessary to make the development acceptable in planning terms;*
 - b) *directly related to the development; and*
 - c) *fairly and reasonably related in scale and kind to the development.*
- 9.68. Policy INF1 of the CLP 2015 covers the issue of Infrastructure. This Policy states, amongst other things, that the *Council's approach to infrastructure planning in the District will identify the infrastructure required to meet the District's growth, to support the strategic site allocations and to ensure delivery by:*
- *Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.*
- 9.69. Policy BSC 3 of the CLP 2015 states, amongst other things that at *Kidlington and elsewhere, all proposed developments that include 11 or more dwellings (gross), or which would be provided on sites suitable for 11 or more dwellings (gross), will be expected to provide at least 35% of new housing as affordable homes on site. The Policy continues by stating that, all qualifying developments will be expected to provide 70% of the affordable housing as affordable/social rented dwellings and 30% as other forms of intermediate affordable homes. Social rented housing will be*

particularly supported in the form of extra care or other supported housing. It is expected that these requirements will be met without the use of social housing grant or other grant.

- 9.70. The Council also has a Developer Contributions SPD in place which was adopted in February 2018. It should, however, be noted that this is a general guide and development proposals will continue to be assessed on a case-by-case basis with the individual circumstances of each site being taken into consideration when identifying infrastructure requirements.
- 9.71. Due to the level of development on the site the issue of affordable housing should be taken into account. Paragraph 65 of the NPPF states that *where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups.* This application is for 18 residential units on the site which would represent a major application in terms of definition. For this reason, the application should provide an element of affordable housing as part of the proposal.
- 9.72. The policy requirement is for 30% affordable housing as set out in Policy BSC3 in the CLP 2015 which would equate to 6 units with a 70:30 tenure split between rented and shared ownership. However, as part of the application the applicant has provided a detailed viability assessment of the scheme, which highlights that the proposal would not be viable with the cost of providing an element of affordable housing as part of the development. For this reason, the application as submitted would not be supported by any S106 contributions such as affordable housing.
- 9.73. To assist in the LPA's appraisal of this submission on viability officers instructed an independent review of the applicant's viability assessment which was carried out by Bidwells. In reviewing the viability assessment Bidwells confirmed that the findings of the applicant's assessment were reasonable and within the region of costs expected for this type of development. The Bidwell review of the development has therefore concluded support for the applicant's view that the proposed scheme is unable to make any contribution towards the provision of affordable housing whilst maintaining economic viability although a small contribution of £30,000 could be sought out of the development.
- 9.74. Taking this review into consideration the Strategic Housing Officer, although consulted, has not made any request for affordable housing. As outlined in the paragraphs above Oxfordshire County Council has requested contributions towards highway mitigation measures but all of which would result in the development being unviable and therefore would prevent the scheme from being implemented. In addition, it is also the case that the development has not provided a play area as required under Policy BSC11 of the 2015 CLP and the £30,000 could be used towards an upgrade of an existing play area in the local area. This, however, is limited to the level of S106 contribution which could be required out of this development and as such any contribution towards affordable housing would not be sought on this proposal.

Sustainability

- 9.75. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 154 states that new development should be planned for in ways that: a) *avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed*

through suitable adaptation measures, including through the planning of green infrastructure; and b) can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards. Paragraph 155 continues by stating, amongst other things, that in order to help increase the use and supply of renewable and low carbon energy and heat, plans should: c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.

- 9.76. Policy ESD1 of the CLP 2015 covers the issue of Mitigating and Adapting to Climate Change and includes criteria under which application for new development will be considered. Included in the criteria is the requirement that development will incorporate suitable adaptation measures to ensure that development is more resilient to climate change impacts. These requirements will include the consideration of, *taking into account the known physical and environmental constraints when identifying locations for development. Demonstration of design approaches that are resilient to climate change impacts including the use of passive solar design for heating and cooling. Minimising the risk of flooding and making use of sustainable drainage methods and reducing the effects of development on the microclimate (through the provision of green infrastructure including open space and water, planting, and green roofs).*
- 9.77. Policy ESD 2 relates to Energy Hierarchy and Allowable Solutions. This policy seeks to achieve carbon emissions reductions, where the Council will promote an 'energy hierarchy' as follows: *Reducing energy use, in particular by the use of sustainable design and construction measures. Supplying energy efficiently and giving priority to decentralised energy supply. Making use of renewable energy Making use of allowable solutions.* Any new development will be expected to take these points into account and address the energy needs of the development.
- 9.78. Policy ESD 3 covers the issue of Sustainable Construction and states amongst other things that *all new residential development will be expected to incorporate sustainable design and construction technology to achieve zero carbon development through a combination of fabric energy efficiency, carbon compliance and allowable solutions in line with Government policy.* The Policy continues by stating that *Cherwell District is in an area of water stress and as such the Council will seek a higher level of water efficiency than required in the Building Regulations, with developments achieving a limit of 110 litres/person/day.* The Policy continues by stating that *all development proposals will be encouraged to reflect high quality design and high environmental standards, demonstrating sustainable construction methods including but not limited to: Minimising both energy demands and energy loss. Maximising passive solar lighting and natural ventilation. Maximising resource efficiency Incorporating the use of recycled and energy efficient materials. Incorporating the use of locally sourced building materials. Reducing waste and pollution and making adequate provision for the recycling of waste. Making use of sustainable drainage methods. Reducing the impact on the external environment and maximising opportunities for cooling and shading (by the provision of open space and water, planting, and green roofs, for example); and making use of the embodied energy within buildings wherever possible and re-using materials where proposals involve demolition or redevelopment.*
- 9.79. This application seeks permission for the development of 18 residential units on the site. The application has not been supported by any further details in terms of renewable energy measures nor details of sustainable construction methods to address the requirements of the Policies and assist in reducing the impact of the development upon the environment. Notwithstanding this point the applicant has been requested to provide details of measures to be incorporated into the scheme and

these details will be reported to the members as part of the committee update report. On the basis that suitable details are provided it is considered that the development would comply with the adopted policies in terms of sustainable construction.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise. The NPPF supports this position and adds that proposals that accord with an up-to-date development plan should be approved and those which do not should normally be refused unless outweighed by other material considerations.
- 10.2. In reaching an informed decision on planning applications there is a need for the Local Planning Authority to undertake a balancing exercise to examine whether the adverse impacts of a development would be outweighed by the benefits such that, notwithstanding the harm, it could be considered sustainable development within the meaning given in the NPPF. In carrying out the balancing exercise it is, therefore, necessary to take into account policies in the development plan as well as those in the NPPF. It is also necessary to recognise that Section 38 of the 1990 Act continues to require decisions to be made in accordance with the development plan and the NPPF highlights the importance of the plan led system as a whole.
- 10.3. Having regard to the Council's current housing land supply position, i.e. less than a 5-year housing land supply, Paragraph 11d of the NPPF is engaged; with a presumption of granting planning permission unless such would cause conflict with other policies and would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 10.4. This application seeks planning permission for the construction of 18 residential units on this vacant site. Planning permission has previously been granted to develop the site for a single building to provide 36no bedroom specialist nursing facility (associated with dementia care and neurological rehabilitation) (Use Class C2). Although the approval for this nursing facility has now expired it is clear that the principle of developing this site is acceptable. On this basis the key with the current proposal is the change in type and appearance of development on the site in the form of residential dwellings.
- 10.5. Although the site itself is not allocated for any particular development in the Adderbury Neighbourhood Plan it is located within the village boundary. Adderbury is designated as a Category A Village under Policy Villages 1 of the CLP 2015. Policy Villages 2 supports development of sites for more than 10 homes at Category A villages in certain circumstances; this development would be for 10 dwellings and therefore falls within this category. While these policies are to be afforded reduced weight, given that the Council's housing land supply position renders them out of date, the site is in a geographically sustainable location and future occupiers of the development would have access to a range of services within the village and a realistic choice as to how they access others outside the village.
- 10.6. In terms of visual impact, the site is located to the rear of the Seccombe Court care home and would not be clearly visible from any public highway. The development would be built to the maximum density required under BSC2 of the CLP 2015 and therefore makes the most efficient use of the land as required under the NPPF. However, the amount of development on the site results in something of a cramped form of development and harsh urban edge, emphasised by the proposed removal of the 10m landscape buffer to the western edge which was required to make the approved care home acceptable in landscape and visual terms. Overall, it is

considered the proposal would adversely affect the character and appearance of the area and this weighs against the proposal.

- 10.7. The proposals are considered acceptable in terms of transport and could be designed to ensure acceptable in terms of neighbour amenity.
- 10.8. At the time of drafting this report the LLFA had an objection to the proposal and further information had been requested. This additional drainage information has been provided and the further comments from the LLFA are awaited. On the basis that the LLFA confirms that the new information is acceptable it is considered that the proposal would not result in any adverse impact upon the area in terms of drainage / flooding.
- 10.9. There is currently an outstanding objection from the Council's Ecology Officer. However, additional information has been provided and further comments sought. On the basis that the Ecology Officer confirms no objections it is considered that the proposed development is acceptable from an ecology point of view.
- 10.10. This scale and type of development would normally require a S106 to be negotiated and attached to any planning permission granted to include an element of affordable housing. As outlined under Policy BSC3 the district council will need to be satisfied that such affordable housing is economically viable in terms of its ability to meet the need identified. As part of the supporting documents attached to the application the applicant has submitted a detailed viability assessment with the application. The viability assessment outlines the fact that the development would not be viable in the event that a S106 would be required. In considering this the Council's viability consultant, Bidwell's has reviewed the details and advises that the applicant is correct and as such there is no S106 to be attached to the development in the event that the application was to be approved. Notwithstanding this point the applicant has confirmed that as no play area has been provided on the site that a contribution towards improvements on an existing play area close by could be provided as part of a S106 to a maximum of £30,000.
- 10.11. The provision of 18 residential units on the site would align with the NPPF objective to significantly boost the supply of new housing and in the context of the Council not being able to demonstrate a 5-year land supply is to be afforded significant weight. There would also be some economic benefits associated with the development including the jobs through construction.
- 10.12. Overall, taken as a whole the adverse impacts identified are considered not to clearly and demonstrably outweigh the benefits of the scheme. It is therefore recommended that planning permission be granted.

11. RECOMMENDATION

RECOMMENDATION

- A. DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION SUBJECT TO:**
 - i. THE RESOLUTION OF:**
 - a. NO OBJECTIONS FROM THE ECOLOGY OFFICER**
 - b. ADEQUATE INFORMATION TO ADDRESS SUSTAINABILITY**
 - ii. TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND**
 - iii. THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS**

**SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991,
TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED
NECESSARY)**

- B. FURTHER DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT POWERS TO REFUSE PERMISSION ON THE BASIS OF ANY OUTSTANDING ISSUE WHICH IN THEIR VIEW HAS NOT BEEN ADEQUATELY ADDRESSED BY THE APPLICANT WITHIN 3 MONTHS OF THE COMMITTEE DATE, OR ANY EXTENSION TO THIS PERIOD DEEMED REASONABLE, FOR THE DRAFT REASONS FOR REFUSAL SET OUT BELOW (AND ANY AMENDMENTS AS DEEMED NECESSARY)**
- i. The ecological report submitted with the application does not adequately assess the impact on the development will have upon the local ecological. The development fails to demonstrate an ecological enhancement on the site as part of the development and therefore fails to comply with Policy ESD 10 of the Cherwell Local Plan 2011 – 2031 and paragraphs 174 and 180 of the National Planning Policy Framework**
 - ii. No information is provided to demonstrate that the construction and future use of the new dwellings will incorporate suitable adaptation measures to ensure that the development is resilient to climate change impacts. The development is therefore contrary to Policies ESD1, ESD2 and ESD3 of the Cherwell Local Plan 2011-2031 Part 1 as well as paragraphs 154 and 155 of the National Planning Policy Framework.**

CONDITIONS

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

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

2. The development shall not be carried out otherwise than in complete accordance with the approved plans reference SLP1, 03, 05, received 04/06/2021 revised plans reference 01 Rev A, 02 Rev A, 03 Rev A, 04, 06 rev B, 07 Rev A, 08 Rev A, 09, 10, 11 Rev A, 12 Rev A, 14, 15 received 09/09/2022 unless a non-material or minor material amendment is approved by the Local Planning Authority under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

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

3. No development shall take place until the applicant (or their agents or successors in title) has submitted to and had approved in writing by the local planning authority a programme of archaeological work consisting of a written scheme of investigation and a timetable for that work. The development shall thereafter proceed in accordance with the approved written scheme of investigation and timetable.

Reason: To secure the provision of archaeological investigation and the subsequent recording of the remains, to comply with Government advice in the National Planning Policy Framework (NPPF) (Section 16). This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

4. Following the approval of the Written Scheme of Investigation referred to in condition 3, and prior to the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority within two years of the completion of the archaeological fieldwork.

Reason: To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with the NPPF

5. Construction shall not begin until a detailed surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be subsequently implemented in accordance with the approved details prior to the first occupation of the development. The scheme shall include:

- A compliance report to demonstrate how the scheme complies with the "Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire";
- Full drainage calculations for all events up to and including the 1 in 100 year plus 40% climate change and 10% urban creep (Note: the Cv values should be set to 0.95 and MADD should be 0.0);
- A Flood Exceedance Conveyance Plan;
- Comprehensive infiltration testing across the site to BRE DG 365;
- Detailed design drainage layout drawings of the SuDS proposals including cross-section details;
- Detailed maintenance management plan in accordance with Section 32 of CIRIA C753 including maintenance schedules for each drainage element;
- Details of how water quality will be managed during construction and post development in perpetuity; and
- Consent for any connections into third party drainage systems

Reason: To ensure that there is no flooding due to the site drainage and that the water environment is protected and in accordance with Policies ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

6. Prior to the first occupation of the development a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:

- As built plans in both .pdf and .shp file format;
- Photographs to document each key stage of the drainage system when installed on site;
- Photographs to document the completed installation of the drainage structures on site;
- The name and contact details of any appointed management company information.

Reason: In accordance with section 21 of the Flood and Water Management Act 2010

and Government guidance contained within the National Planning Policy Framework.

7. A schedule of materials and finishes to be used in the external walls and roof(s) of the dwelling(s) shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The development shall thereafter be carried out in accordance with the approved details and shall be retained as such thereafter.

Reason: To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

8. No development shall commence unless and until a report has been submitted to and approved in writing by the local planning authority that demonstrates all habitable rooms within the dwellings will achieve the noise levels specified in BS8233:2014 (Guidance on sound insulation and noise reduction for buildings) for indoor and external noise levels (if required, then the methods for rating noise in BS4142:2014 should be used, such as for noise from industrial sources). Thereafter, and prior to the first occupation of the dwellings affected by this condition, the dwellings shall be insulated and maintained in accordance with approved details.

Reason: To avoid noise giving rise to significant adverse impacts on health and quality of life and to comply with advice in the NPPF (section 15) and Saved Policy ENV1 of the Cherwell Local Plan 1996

9. No development shall take place, including any works of demolition until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The statement shall provide for at a minimum:
 - a. The parking of vehicles of site operatives and visitors;
 - b. The routeing of HGVs to and from the site;
 - c. Loading and unloading of plant and materials;
 - d. Storage of plant and materials used in constructing the development;
 - e. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - f. Wheel washing facilities including type of operation (automated, water recycling etc) and road sweeping;
 - g. Measures to control the emission of dust and dirt during construction;
 - h. A scheme for recycling/ disposing of waste resulting from demolition and construction works;
 - i. Delivery, demolition and construction working hours;

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason: To ensure the environment is protected during construction in accordance with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

10. No part of the development hereby permitted shall take place until a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model has been carried out by a competent person and in accordance

with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and has been submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval that it is satisfied that no potential risk from contamination has been identified.

Reason: To ensure that any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

11. If a potential risk from contamination is identified as a result of the work carried out under condition 10, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

12. If contamination is found by undertaking the work carried out under condition 10, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

13. If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

Reason: To ensure that any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12

of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

14. Prior to the first occupation of any of the dwellings hereby approved, all of the estate roads and footpaths (except for the final surfacing thereof) shall be laid out, constructed, lit and drained in accordance with Oxfordshire County Council's 'Conditions and Specifications for the Construction of Roads' and its subsequent amendments.

Reason: In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Government guidance contained within the National Planning Policy Framework.

15. A plan detailing the proposed parking and turning provision for vehicles to be accommodated within the site (including details of the proposed surfacing and drainage of the provision), shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The approved parking and turning facilities shall be laid out and completed in accordance with the approved details before the first occupation of the dwellings. The car parking and turning spaces shall be retained for the parking turning of vehicles at all times thereafter.

Reason: In the interests of highway safety, to ensure the provision of adequate off-street car parking and turning and to comply with Government guidance in Section 12 of the National Planning Policy Framework.

16. Details of a turning area to be provided within the site so that motor vehicles may enter, turn around and leave in a forward direction including refuse and emergency service vehicles (including surfacing and drainage details) shall be submitted to and approved in writing by the Local Planning Authority before the development reaches slab level. The turning area shall be constructed and completed in accordance with the approved details before the development is first occupied and shall be retained for the manoeuvring of motor vehicles at all times thereafter.

Reason: In the interests of highway safety and to comply with Government guidance in Section 12 of the National Planning Policy Framework.

17. Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The covered cycle parking facilities so provided shall thereafter be permanently retained and maintained for the parking of cycles in connection with the development.

Reason: In the interests of promoting sustainable transport modes in accordance with Government advice in the National Planning Policy Framework.

18. Prior to the first occupation of the development a Residential Travel Plan and Residential Travel Information Pack shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Travel Plan Statement shall be implemented and operated in accordance with the approved details.

Reason: In the interests of sustainability, to ensure a satisfactory form of development and to comply with Government guidance contained within the National Planning Policy Framework.

19. No temporary obstructions including any materials, plant, temporary structures or excavations of any kind shall be deposited / undertaken on or adjacent to the public right of way that may obstruct or dissuade the public from using the public right of way

whilst the development takes place.

Reason: To ensure the public right of way remains available and convenient for public use.

20. No development shall commence unless and until full details of the tree protection measures for all trees and hedges to be retained have been submitted to and approved in writing by the Local Planning Authority. These measures shall be set out in a detailed Arboricultural Method Statement to include the specification of the location and type of protective fencing, the timings for the erection and removal of the protective fencing, the details of any hard surfacing and underground services proposed within the root protection areas, all to be in accordance with the British Standard for Trees in Relation to Construction 5837: 2012, and the monitoring of tree protection measures during construction. All tree protective measures shall be carried out as set out in the approved Arboricultural Method Statement.

Reason: To protect the visual amenity of the area in accordance with policies

21. No development above slab level shall be carried out until a lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The approved lighting scheme shall be implemented in full compliance prior to the first occupation on the site.

Reason : To protect the amenities of nearby residents, visual amenity and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework

22. Prior to first occupation of the development hereby approved a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within Section 15 of the National Planning Policy Framework.

23. No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include as a minimum:
- a. Risk assessment of potentially damaging construction activities;
 - b. Identification of 'Biodiversity Protection Zones';
 - c. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
 - d. The location and timing of sensitive works to avoid harm to biodiversity features;
 - e. The times during construction when specialist ecologists need to be present on site to oversee works;
 - f. Responsible persons and lines of communication;
 - g. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
 - h. Use of protective fences, exclusion barriers and warning signs

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

24. Full details of the siting, appearance and colour of any electricity or gas supply meter housings to be located on the external elevations of the buildings shall be submitted to and approved by the Local Planning Authority prior to the construction of the building above slab level. The development shall thereafter be carried out in accordance with the approved details

Reason: In order to safeguard the visual amenities of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996.

25. Notwithstanding the provisions of Class A of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or in any provision equivalent to that class in any statutory instrument revoking, amending or re-enacting that order), the garage(s) shown on the approved plans shall be retained for the garaging of private motor vehicles and shall not be converted to provide additional living accommodation without the grant of further specific planning permission from the Local Planning Authority.

Reason: In the interests of highway safety, to ensure the provision of adequate off-street car parking to comply with Government guidance in Section 12 of the National Planning Policy Framework.

26. Notwithstanding the provisions of Classes A-D (inc) of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending that order) no enlargement alteration or improvement of any dwellinghouse shall be undertaken at any time without the grant of further specific planning permission from the Local Planning Authority.

Reason: Taking into account the density of the site it is considered to be in the public interest to ensure the merits of future proposals can be assessed by the Local Planning Authority so that the amenities of the adjoining occupier(s) are not adversely affected in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Section 12 of the National Planning Policy Framework.

27. The first-floor window in the east elevation of plot 9 shall be obscure glazed, using manufactured obscure glass, (not an applied adhesive film) before the dwelling is first occupied and shall be permanently retained as such thereafter. The window shall also be non-opening, unless those parts which can be opened are more than 1.7m above the floor of the room in which it is installed and shall be permanently retained as such thereafter.

Reason: To ensure that the amenities of the adjoining occupier(s) are not adversely affected by loss of privacy in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy

Framework.

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

Reason: To ensure the satisfactory appearance of the completed development, to safeguard the privacy of the occupants of the existing and proposed dwellings and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

INFORMATIVE

1. There are water mains crossing or close to your development. Thames Water do NOT permit the building over or construction within 3m of water mains. If you're planning significant works near our mains (within 3m) we'll need to check that your development doesn't reduce capacity, limit repair or maintenance activities during and after construction, or inhibit the services we provide in any other way. The applicant is advised to read our guide working near or diverting our pipes. <https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-near-or-diverting-our-pipes>
2. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.
3. This development has some limited potential to impact Great Crested Newts as there is a pond and suitable habitat within 500m of the development. If Great Crested Newts are discovered during development, all works must cease until advice has been sought from Natural England, as failure to do so could result in prosecutable offences being committed.

APPENDIX 1- Heads of Terms for Section 106 Agreement/undertaking

Planning Obligation		Regulation 122 Assessment	
Detail	Amount	Trigger point	
Provision of off-site commuted sum for improvements to local play area	£TBC	No more than SEVENTY PER CENT (70%) of the Dwellings shall be Occupied until the Practical Completion Certificate has been issued	<p>Necessary – To meet the demands generated from the proposal and to ensure long term maintenance in accordance with Policy BSC10 and BSC11 of the CLP 2015 and advice in the Developer Contributions SPD (2018)</p> <p>Directly related – For the use of future occupiers of the development</p> <p>Fairly and reasonably related in scale and kind – In accordance with the policy and guidance provisions adopted by the Council</p>