

# Public Document Pack



**Committee:** Planning Committee  
**Date:** Thursday 15 July 2010  
**Time:** 4.00 pm  
**Venue** Bodicote House, Bodicote, Banbury, OX15 4AA

## Membership

Councillor Fred Blackwell (Chairman)	Councillor Rose Stratford (Vice-Chairman)
Councillor Ken Atack	Councillor Maurice Billington
Councillor Colin Clarke	Councillor Nick Cotter
Councillor Mrs Diana Edwards	Councillor Mrs Catherine Fulljames
Councillor Michael Gibbard	Councillor Chris Heath
Councillor Alastair Milne Home	Councillor James Macnamara
Councillor D M Pickford	Councillor G A Reynolds
Councillor Leslie F Sibley	Councillor Chris Smithson
Councillor Trevor Stevens	Councillor Lawrie Stratford

## Substitutes

Councillor Luke Annaly	Councillor Norman Bolster
Councillor Andrew Fulljames	Councillor Timothy Hallchurch MBE
Councillor David Hughes	Councillor Russell Hurle
Councillor Kieron Mallon	Councillor P A O'Sullivan
Councillor George Parish	Councillor Nicholas Turner
Councillor Douglas Williamson	Councillor Barry Wood

## AGENDA

1. Apologies for Absence and Notification of Substitute Members
2. Declarations of Interest

Members are asked to declare any interest and the nature of that interest which they may have in any of the items under consideration at this meeting

### **3. Petitions and Requests to Address the Meeting**

The Chairman to report on any requests to submit petitions or to address the meeting.

### **4. Urgent Business**

The Chairman to advise whether they have agreed to any item of urgent business being admitted to the agenda.

### **5. Minutes (Pages 1 - 7)**

To confirm as a correct record the Minutes of the meeting of the Committee held on 17 June 2010.

### **6. Letter from the Secretary of State for Communities and Local Government (27 May 2010) on the Abolition of Regional Strategies: Implications of the for 5 Year Housing Supply and Current Planning Applications (Pages 8 - 12)**

Joint Report of Head of Development Control and Major Developments and Head of Planning Policy and Economic Development

#### **Summary**

To inform members of the implications of the Secretary of State's letter (27/5/10) for 5 year housing supply and its impact on current planning applications.

#### **Recommendations**

The Planning Committee is recommended to:

- (1) Note the report including potential implications of the Secretary of State's letter of 27 May 2010 with regard to determining planning applications and potential appeals.

#### **Planning Applications**

### **7. Land North of Milton Road, Adderbury (Pages 15 - 24)**

### **8. Land North of Milton Road, Adderbury (Pages 25 - 54)**

### **9. Land to the West and South of Numbers 7 to 26 The Green, Chesterton (Pages 55 - 82)**

### **10. Land South of Blackwood Place and Molyneux Drive and North West of Cotefield Farm, Oxford Road, Bodicote (Pages 83 - 107)**

## **Tree Preservation Orders**

11. **Tree Preservation Order (No. 14) 2010 Oak Tree at 30 Spinney Drive, Banbury (Pages 108 - 110)**

Report of Head of Development Control and Major Developments

### **Summary**

To seek the confirmation of an unopposed Tree Preservation Order relating to an Oak tree at 30 Spinney Drive, Banbury (copy plan attached as appendix 1) Tree Preservation Order No. (14/2010)

### **Recommendation**

The Planning Committee is recommended to:

(1) Confirm the Order without modification.

## **Enforcement Action**

12. **Enforcement and legal action relating to the failure to comply with the terms and conditions as set out within a S106 legal agreement dated 13 January 2006 requiring the provision of an area of play at land to the rear of 286-304 Broughton Road Banbury (known as Claypits Close) (Pages 111 - 113)**

Report of Head of Development Control and Major Developments

### **Summary**

The purpose of this report is to bring to the attention of the Committee the continued failure of the developer to provide LAPs (Local Area for Play), as required by the Legal Agreement entered into by the applicants at the time of planning permission being granted, and to allow the Committee to consider the need to take formal action to require compliance.

### **Recommendation**

The Planning Committee is recommended to

(1) Resolves to authorise, subject to the Head of Legal and Democratic Services being satisfied as to the evidence, the application for legal proceedings by way of a court injunction to enforce the terms of the section 106 Agreement in respect of the non-compliance detailed above, such authorisation to include the instituting and continuing of the proceedings to final judgement and any enforcement of the judgement. The application for the injunction would seek to equip and landscape the LAP to be reasonable satisfaction of the District Council. The LAP must also be assessed and passed by RoSPA (Royal Society for the Prevention of Accidents).

## **Information and Other Reports**

13. **Variation of Legal Agreement tied to Planning Permission 01/00210/OUT at the Former Cattle Market, Merton Street, Banbury (Pages 114 - 117)**

Report of Head of Development Control and Major Developments

### **Summary**

To seek authorisation to allow the legal agreement attached to the development at the former Cattle Market, Merton Street, Banbury to be varied to reduce the commuted payments for LAPs at the site.

### **Recommendation**

The Planning Committee is recommended to:

- (1) Authorise the Head of Legal and Democratic Services to vary the S106 agreement to reduce the commuted sum payment for the provision of LAPs at the site.

## **Review and Monitoring Reports**

14. **Decisions Subject to Various Requirements - Progress Report (Pages 118 - 121)**

Report of Head of Development Control and Major Developments

### **Summary**

This report aims to keep members informed upon applications which they have authorised decisions upon to various requirements which must be complied with prior to the issue of decisions.

An update on any changes since the preparation of the report will be given at the meeting.

### **Recommendation**

The Planning Committee is recommended to:

- (1) Accept the position statement.

## 15. Appeals Progress Report (Pages 122 - 124)

Report of the Head of Development Control and Major Developments

### **Summary**

This report aims to keep members informed upon applications which have been determined by the Council, where new appeals have been lodged, Public Inquiries/hearings scheduled or appeal results achieved.

### **Recommendation**

The Planning Committee is recommended to:

- (1) Accept the position statement.

## **Information about this Agenda**

### **Apologies for Absence**

Apologies for absence should be notified to [democracy@cherwell-dc.gov.uk](mailto:democracy@cherwell-dc.gov.uk) or 01295 221587 prior to the start of the meeting.

### **Declarations of Interest**

Members are asked to declare interests at item 2 on the agenda or if arriving after the start of the meeting, at the start of the relevant agenda item. The definition of personal and prejudicial interests is set out in the constitution. The Democratic Support Officer will have a copy available for inspection at all meetings.

**Personal Interest:** Members must declare the interest but may stay in the room, debate and vote on the issue.

**Prejudicial Interest:** Member must withdraw from the meeting room and should inform the Chairman accordingly.

With the exception of the some very specific circumstances, a Member with a personal interest also has a prejudicial interest if it is one which a Member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest.

### **Local Government and Finance Act 1992 – Budget Setting, Contracts & Supplementary Estimates**

Members are reminded that any member who is two months in arrears with Council Tax must declare the fact and may speak but not vote on any decision which involves budget setting, extending or agreeing contracts or incurring expenditure not provided for in the agreed budget for a given year and could affect calculations on the level of Council Tax.

### **Queries Regarding this Agenda**

Please contact Michael Sands, Legal and Democratic Services [michael.sands@cherwell-dc.gov.uk](mailto:michael.sands@cherwell-dc.gov.uk) (01295) 221554

**Mary Harpley**  
**Chief Executive**

# Agenda Item 5

## Cherwell District Council

### Planning Committee

Minutes of a meeting of the Planning Committee held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 17 June 2010 at 4.00 pm

Present: Councillor Fred Blackwell (Chairman)  
Councillor Rose Stratford (Vice-Chairman)

Councillor Ken Atack  
Councillor Colin Clarke  
Councillor Mrs Catherine Fulljames  
Councillor Michael Gibbard  
Councillor Chris Heath  
Councillor D M Pickford  
Councillor G A Reynolds  
Councillor Leslie F Sibley  
Councillor Chris Smithson  
Councillor Trevor Stevens  
Councillor Lawrie Stratford

Substitute Members: Councillor David Hughes (In place of Councillor Maurice Billington)

Apologies for absence: Councillor Maurice Billington  
Councillor Mrs Diana Edwards  
Councillor Alastair Milne Home  
Councillor James Macnamara

Officers: Jameson Bridgwater, Head of Development Control & Major Developments  
Bob Duxbury, Development Control Team Leader  
Nigel Bell, Solicitor  
Michael Sands, Trainee Democratic and Scrutiny Officer

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### Declarations of Interest

Members declared interest with regard to the following agenda items:

#### **6. OS Parcel 3873 North east of Hillside House, Street from Cropredy to Great Bourton, Cropredy.**

Councillor Ken Atack, Personal, as he had attended Parish Council meetings which had previously considered the application.

#### **7. Land adjoining and north west of 35 Crouch Hill Road, Banbury.**

Councillor Colin Clarke, Personal, as a Member of Banbury Town Council.

**22 Petitions and Requests to Address the Meeting**

There were no petitions or requests to address the meeting.

**23 Urgent Business**

There was no urgent business.

**24 Minutes**

The Minutes of the meeting held on 19 May 2010 and 20 May 2010 were agreed as a correct record and signed by the Chairman.

**25 OS Parcel 3873 North east of Hillside House, Street From Cropredy to Great Bourton, Cropredy**

The Committee considered a report of the Head of Development Control and Major Development for the installation of a cess pit, the construction of a store to the side of the brick animal shelter and a stoned and grassed drive/vehicle standing area.

Councillor Ken Atack spoke in objection to the application as Ward Member.

The Committee were satisfied with the evidence presented.

In reaching their decision, the Committee considered the Officers report, and presentation.

**Resolved**

That application 10/00293/F be approved subject to the following conditions:

- 1) SC 1.4A Full permission: Duration Limit (3 years) (RC2)
- 2) SC 2.2AA Samples of Walling Material (RC4A) 'timber boarding' 'extension to the barn'
- 3) SC 2.2BB Samples of Roofing Materials (RC4A) 'corrugated tin roof' 'extension to the barn'
- 4) SC 4.0BC Access Specification Existing – Improved as plan no. JL-02b (RC13BB) 'first use' 'extended barn'
- 5) SC 6.19AA Restriction to Agriculture (RC64AA) Delete 'development' Insert 'extension to the barn'
- 6) That, with the exception of timber post and rail fencing to match that existing on the southern boundary site as identified on the site block plan received on 1 June 2009, and notwithstanding the provision of

Class A of Part 2, Schedule 2 of the Town & Country Planning (General Permitted Development) Order 1995 and its subsequent amendments, no gate, fence, wall or other means of enclosure shall be erected, constructed or placed within or around the site without the prior express planning consent of the Local Planning Authority.

- 7) The underground storage tank shall not be installed until a letter from an exempted organisation confirming their intent to issue a certificate for the site under paragraph 5 of Schedule 1 of the Caravan Sites and Control of development Act 1960 has been obtained and submitted to the local planning authority.
- 8) The underground storage tank shall be installed in accordance with the Kingspan manufacturers details as submitted as part of the application and of a capacity to be first agreed in writing by the Local Planning Authority. There shall be no outlet from the tank to the ground or any watercourse.
- 9) The underground storage tank shall not be installed until full details of the chemical toilet disposal point leading to the tank inlet, and details of a high level alarm designed to provide a timely visible indication of the impending need to empty the tank, have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 10) The high level alarm approved under condition 8 above shall be made operational before the tank is first brought into use. Thereafter it shall be retained in full working order for so long as the tank remains in use.
- 11) Within 3 months of the date hereof the metal oil tank already installed below ground shall be either removed from the ground or filled with a material to be first agreed in writing by the local planning authority.

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### **Land adjoining and north west of 35 Crouch Hill Road, Banbury**

The Committee considered a report of the Head of Development Control and Major Developments for the renewal of application 06/02499/OUT for residential building land.

The Committee were satisfied with the evidence presented.

In reaching their decision, the Committee considered the Officers report, presentation and written update.

### **Resolved**

That application 10/00388/OUT be approved subject to the following:

- I. Linking this application to the existing s106 application relating to the site (advice awaited from the Head of Legal and Democratic Services)
- II. The comments of Natural England

- III. The comments of the Council's Head of Urban and Rural Services in relation to the impact of the proposal upon the trees in the site
- IV. The following conditions and planning notes:-

Conditions:

Conditions 1 – 15 of 06/02499/OUT (change policies)  
and the following additional conditions:

- 16) Prior to the commencement of the development hereby permitted a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model shall be 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 shall be 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.
- 17) If a potential risk from contamination is identified as a result of the work carried out under condition 16, 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.
- 18) If contamination is found by undertaking the work carried out under condition 17, 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.
- 19) If remedial works have been identified in condition 18, the remedial works shall be carried out in accordance with the scheme approved under condition 18. The development shall not be occupied until a verification report (referred to in PPS23 as a validation report), that demonstrates the effectiveness of the remediation carried out, has been submitted to and approved in writing by the Local Planning Authority.

20) Except where otherwise stipulated by condition, the application shall be carried out strictly in accordance with the following plans and documents: Site Location Plan, Interim Protected Species Report (Sept 2008)

27 **Cherwell Valley Services, Junction 10 M40, Ardley**

The Committee considered a report of the Head of Development Control and Major Developments for a temporary MSA facility.

The Committee were satisfied with the evidence presented.

In reaching their decision, the Committee considered the Officers report, presentation and written update.

**Resolved**

That application 10/00704/F be approved subject to the following conditions:

- 1) That at the expiration of 12 months from the date of this permission, or within 6 weeks of the completion of the permanent replacement MSA building, whichever is the sooner, the building hereby approved shall be removed from the site and the land returned to its former condition on or before that date (RC42)
- 2) That with the exception of the buildings hereby approved, and the provision of a building compound for the construction of the permanent replacement MSA building, the existing car parking and coach parking areas shall be kept free of obstructions at all times and only used for parking purposes (RC16A)
- 3) RC4.21A Surface water drainage arrangements

28 **Tree Preservation Order (No. 06) 2010 one Yew tree, one group of sycamore trees, one group of Horse Chestnut trees at 61 Green Road, Kidlington, Oxon**

The Committee considered a report of the Head of Development Control and Major Developments which sought the confirmation of an unopposed Tree Preservation Order relating to one Yew tree, one group of sycamore trees and one group of Horse Chestnut trees at 61 Green Road, Kidlington.

**Resolved**

That Tree Preservation Order No. (06) be confirmed without modification.

29 **Tree Preservation Order (No. 07) 2010 Various Trees at Horton Hospital, Banbury**

The Committee considered a report of the Head of Development Control and Major Developments which sought the confirmation of an unopposed Tree Preservation Order relating to various trees at the Horton Hospital, Banbury.

**Resolved**

That Tree Preservation Order No (07) be confirmed without modification.

30 **Tree Preservation Order (No. 11) 2010 Willow tree at 13 Round Close Road, Adderbury**

The Committee considered a report of the Head of Development Control and Major Developments which sought the confirmation of an unopposed Tree Preservation Order relating to a Willow tree at 13 Round Close Road, Adderbury.

**Resolved**

That Tree Preservation Order No. (11) be confirmed without modification.

31 **Decisions Subject to Various Requirements**

The Committee considered a report of the Head of Development Control and Major Developments which updated Members on decisions which were subject to various requirements.

**Resolved**

That the position statement be accepted.

32 **Appeals Progress Report**

The Committee considered a report of the Head of Development Control and Major Developments which updated Members on applications where new appeals had been lodged, public inquiries/hearings scheduled or appeal results received.

**Resolved**

That the position statement be accepted.

The meeting ended at 4:40 pm

Chairman:

Date:

## Planning Committee

### **Letter from the Secretary of State for Communities and Local Government (27 May 2010) on the Abolition of Regional Strategies: Implications of the for 5 Year Housing Supply and Current Planning Applications**

**15 July 2010**

### **Joint Report of Head of Development Control and Major Developments and Head of Planning Policy and Economic Development**

#### **PURPOSE OF REPORT**

To inform members of the implications of the Secretary of State's letter (27/5/10) for 5 year housing supply and its impact on current planning applications.

This report is public

#### **Recommendation**

The Planning Committee is recommended:

- (1) To note the report including potential implications of the Secretary of State's letter of 27 May 2010 with regard to determining planning applications and potential appeals.

#### **Introduction**

On 27 May 2010, the Secretary of State for Communities and Local Government wrote to every Local Planning Authority (LPA) and the Planning Inspectorate highlighting the Government's plans to rapidly abolish regional spatial strategies and stressing that consequently decisions on housing supply (including the provision of travellers' sites) *"will rest with Local Planning Authorities without the framework of regional numbers and plans"*. The letter states that that a formal announcement will be made soon but that Local Planning Authorities and the Planning Inspectorate will be expected to "have regard to this letter as a material planning consideration in any decisions they are currently taking".

It is possible that a formal announcement will have been made by the Secretary of State by the time the Planning Committee meets. In the event

of this, updating information will be tabled at the meeting.

## **Background Information**

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Planning Policy Statement 3 (PPS3) requires the maintenance of a 5 year rolling supply of deliverable (available, suitable and achievable) housing land in addition to meeting overall housing targets.

The adopted Regional Spatial Strategy (South East Plan) specifies housing requirements for each local authority area for the period 2006-2026 which are used for both forward planning and the calculation of the 5 year supply. The adopted figure for Cherwell is 13,400.

The 5 year supply calculation examines what is required to be delivered over the next 5 years (having regard to completions so far) and comparing this to what can reasonably be expected to be delivered over that same period. A review undertaken in Autumn 2009 concluded that the district had a 4.0 year supply in 09/10 and 4.5 year supply in 2010/11 for the following 5 year periods. 2010/11 is now the relevant monitoring year.

Paragraph 64 of PPS3 states, *“Policies and proposed management actions should reflect the degree to which actual performance varies from expected performance, as indicated in the housing and previously developed land trajectories. Where actual performance, compared with the trajectories, is within the acceptable ranges (for example within 10-20 per cent), and future performance is still expected to achieve the rates set out in the trajectories, there may be no need for specific management actions at that time. In such circumstances, Local Planning Authorities will wish to continue to monitor and review performance closely and consider the need to update the five year supply, of deliverable sites where appropriate.”*

Paragraph 71 states, *“Where Local Planning Authorities cannot demonstrate an up-to-date five year supply of deliverable sites...they should consider favourably planning applications for housing...”* having regard to other policies.

The Planning Committee's resolutions to grant permission, subject to legal agreements for redevelopment at Orchard Way, Banbury and 61 homes at south of Milton Road, Bloxham increases supply to 4.6 in 10/11. The committee subsequently refused permission for a scheme for 65 homes on land south of Milton Road, Adderbury for the following reasons:

*“The proposal represents development beyond the built up limits of the settlement and will cause harm to the character and appearance of the countryside. Notwithstanding the Council's short term inability to demonstrate that it has the 5 year supply of housing land required by PPS 3 Housing, the development of this site cannot be justified on the basis of a temporary land supply deficiency alone, a development of this scale is inappropriate at this time given the existing lack of provision of village facilities. As such the proposed development is contrary to the*

*saved policies H13, H18 and C7 of the adopted Cherwell Local Plan and Planning Policy Statement 3 Housing.”*

At the time of writing there are six other housing supply related applications with the Council with the potential to generate some 391 homes (more than the 215 required to return to a five year supply – assessed against current Regional Spatial Strategy requirements). The applications are in Adderbury, Arncott x2, Bicester, Bodicote, and Chesterton.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires determinations to be made in accordance with the development plan unless material considerations indicate otherwise. Until abolished, the South East Plan remains part of the statutory development plan and the Secretary of State’s letter would be a material consideration in the determination of housing supply applications.

The Secretary of State’s letter confirms the intention to abolish regional strategies and states “*Consequently decisions on housing supply...will rest with Local Planning Authorities without the framework of regional numbers and plans*”. The letter states that a formal announcement will be made soon but that Local Planning Authorities and the Planning Inspectorate are expected to have regard to the letter as a material planning consideration in “...any decisions they are currently taking”.

Planning Policy Statement 3 (PPS3) is also a material consideration including the requirement to maintain a five year supply of deliverable housing land (para’ 71). PPS3 also requires an appropriate level of housing provision to be determined taking a evidence-based approach (para’s 32 & 33).

This leaves the Council in a difficult position with six live applications in the system and the need to determine each application on its merits in a responsible and consistent manner.

## **Key Issues for Consideration/Reasons for Decision and Options**

At the time of writing, there are two options available to the Council with regard to the current applications. These are presented below. Should a formal announcement about regional strategies be made by the Secretary of State by the time the Committee meets, it may be necessary to table revised options at the meeting and to provide Members with further guidance.

### **Scenario 1**

That consideration of the applications be deferred until a formal announcement is made by the Secretary of State having regard to the uncertainty about expected future performance measured against unknown future housing requirements.

## **Implications associated with scenario 1**

Scenario 1 leaves the Council open to challenge at appeal for non determination alongside a potential detailed legal examination of the weight of the Secretary of State letter. It is considered that there will be other Councils who will be willing to challenge this; given our existing exposure to appeals I do not consider our position would be financially sustainable.

## **Scenario 2**

That consideration is given now to applications on the basis of current 5 year supply calculations and a housing requirement of 13,400 but presenting the Secretary of State's letter for parallel consideration.

## **Implications associated with scenario 2**

Given that any changes to the planning system will take time to implement and need to move through legal process, the letter from Secretary of State, whilst not without limited weight is a statement of intent. This is the most straightforward and defendable position and would be consistent with our decisions at Bloxham and Adderbury. This approach is still likely to result in appeals should the Council refuse the relevant planning applications, however with a reduction in exposure to costs applications.

## **Implications**

**Financial:** There are likely to be a number of planning appeals during the transition period that may result in additional cost to the Council, given the existing commitments it is likely that the Development Control and Major Developments reserve will have to be utilised.

Comments checked by Eric Meadows, Service Accountant 01295 221556

**Risk Management:** The current transitional period with regard to national planning policy exposes the Council to potential risk of additional planning appeals and the costs associated with them.

Comments checked by Rosemary Watts, Risk and Insurance Manager 01295 221560

## **Wards Affected**

All

## Document Information

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**Background Papers** – Letter from Secretary of State to Chief Planning Officers - 27 May 2010

<b>Report Author</b>	Jameson Bridgwater – Head of Development Control and Major Developments Philip Clarke – Head of Planning Policy and Economic Development
<b>Contact Information</b>	01295 221810 <a href="mailto:jameson.bridgwater@cherwell-dc.gov.uk">jameson.bridgwater@cherwell-dc.gov.uk</a>  01295 221840 <a href="mailto:philip.clarke@cherwell-dc.gov.uk">philip.clarke@cherwell-dc.gov.uk</a>

# Agenda Annex

CHERWELL DISTRICT COUNCIL

## PLANNING COMMITTEE

15 July 2010

### PLANNING APPLICATIONS INDEX

The Officer's recommendations are given at the end of the report on each application.

Members should get in touch with staff as soon as possible after receiving this agenda if they wish to have any further information on the applications.

Any responses to consultations, or information which has been received after the application report was finalised, will be reported at the meeting.

The individual reports normally only refer to the main topic policies in the Cherwell Local Plan that are appropriate to the proposal. However, there may be other policies in the Development Plan, or the Local Plan, or other national and local planning guidance that are material to the proposal but are not specifically referred to.

The reports also only include a summary of the planning issues received in consultee representations and statements submitted on an application. Full copies of the comments received are available for inspection by Members in advance of the meeting.

#### **Legal, Health and Safety, Crime and Disorder, Sustainability and Equalities Implications**

Any relevant matters pertaining to the specific applications are as set out in the individual reports.

#### **Human Rights Implications**

The recommendations in the reports may, if accepted, affect the human rights of individuals under Article 8 and Article 1 of the First Protocol of the European Convention on Human Rights. However, in all the circumstances relating to the development proposals, it is concluded that the recommendations are in accordance with the law and are necessary in a democratic society for the protection of the rights and freedom of others and are also necessary to control the use of property in the interest of the public.

#### **Background Papers**

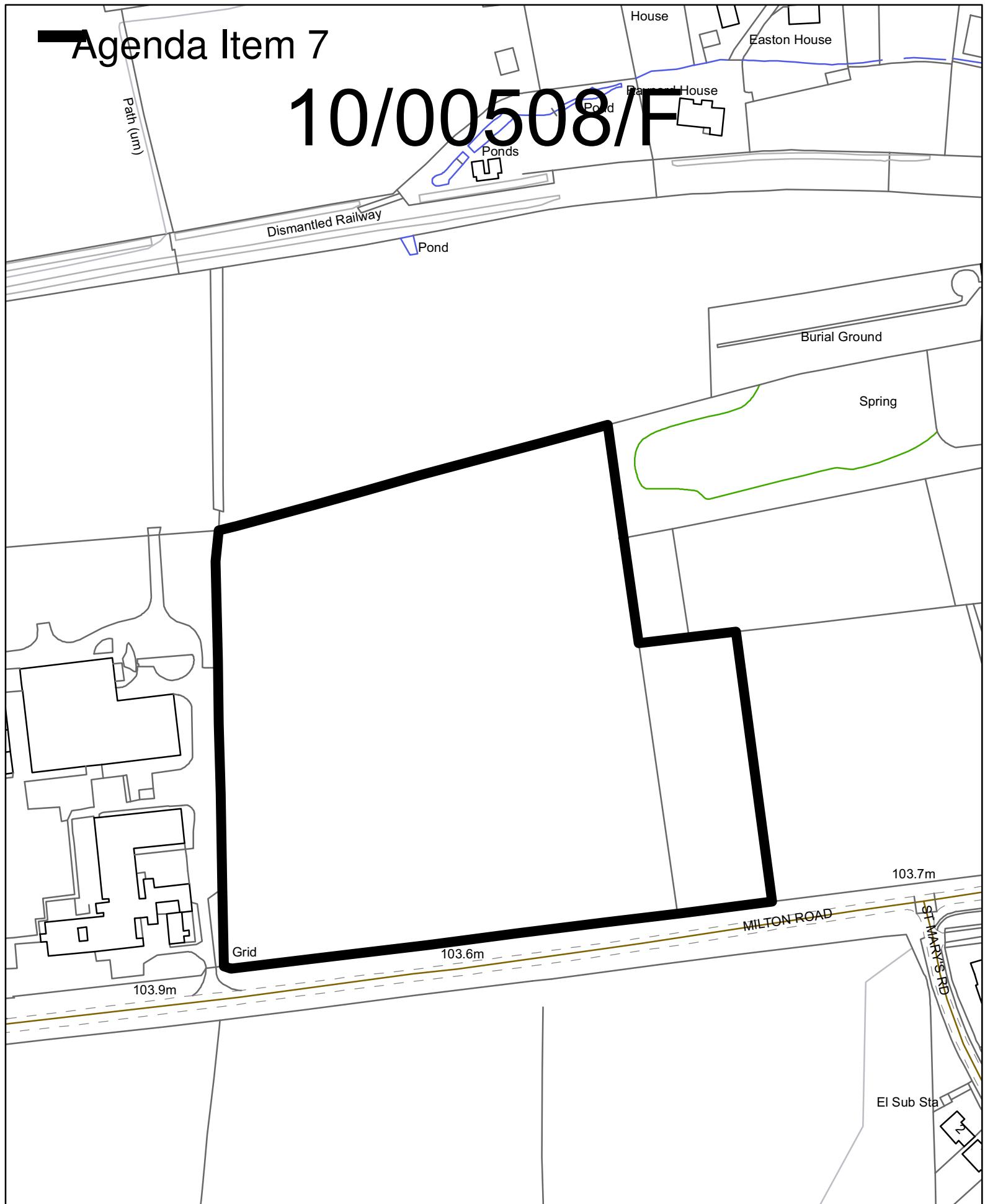
For each of the applications listed are: the application form; the accompanying certificates and plans and any other information provided by the applicant/agent; representations made by bodies or persons consulted on the application; any submissions supporting or objecting to the application; any decision notices or letters containing previous planning decisions relating to the application site.

## Applications

	<b>Site</b>	<b>Application No.</b>	<b>Ward</b>	<b>Recommendation</b>	<b>Contact Officer</b>
7	Land North of Milton Road, Adderbury	10/00508/F	Adderbury	Approval	Caroline Roche
8	Land North of Milton Road, Adderbury	10/00512/OUT	Adderbury	Refusal	Caroline Roche
9	Land to the West and South of Numbers 7 to 26 The Green, Chesterton	10/00547/OUT	Ambrosden and Chesterton	Approval	Caroline Roche
10	Land South of Blackwood Place and Molyneux Drive and North West of Cotefield Farm, Oxford Road, Bodicote	10/00558/OUT	Bloxham and Bodicote	Refusal	Caroline Roche

# Agenda Item 7

# 10/00508/F



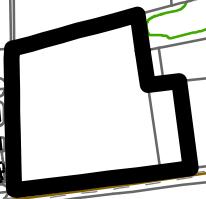
**Scale 1:2,000**

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# 10/00508/F



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**Cherwell**

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<b>Application No:</b>	<b>Ward:</b> Adderbury	<b>Date Valid:</b> 06/04/10
<b>10/00508/F</b>	<b>Applicant:</b> KB Benfield Group Holdings Ltd, Coventry	
<b>Site Address:</b>	Land North of Milton Road, Adderbury	

**Proposal:** Change of use from agricultural use to recreational use

## 1. Site Description and Proposal

- 1.1 This application is for the change of use of the land from agricultural use to recreational use. The site is situated directly to the east of Colegrave Seeds site, to the west of the application site for 35 dwellings (10/00512/OUT), and to the north of Milton Road.
- 1.2 The site is currently used for agricultural purposes. The main portion of the site measures approximately 190 metres by 190 metres. There is a small section of site which incorporates the access that is also within the red line area for the scheme on the adjacent site to the east. The access to the site is on the eastern most boundary of the red line area.
- 1.3 The plan submitted with the application shows that the site can be laid out to accommodate two full size football pitches with space for parking and a sports pavilion. Although this is shown on the plan the layout of the site, the design of the building and the specific number of parking spaces is not being considered as the application has been submitted solely for the change of use of the land.
- 1.4 This application has been submitted independently from the application for houses on the adjacent site but in the event of both applications being approved the two schemes will be linked through a section 106 agreement to ensure that the land is transferred to the District Council for eventual transfer to the Parish Council.

## 2. Application Publicity

- 2.1 The application was advertised by way of site notice, press notice and neighbour notification letters. The final date for comment was 13 May 2010. However letters received after this date have also been considered.
- 2.2 4 letters of objection has been received in relation to this application, the reasons for objecting are set out below;
  - Site is outside the built up limits
  - Need for two pitches is questioned
  - Proposal may lead to future floodlighting resulting in increase in light pollution
  - Sufficient parking would need to be provided
  - The use would never be reversed
  - The motive of developing the land to the east is questionable
  - Adderbury does not need another pitch, the existing facilities are satisfactory for the standard of football played

- Adderbury's sports facilities must be ranked in top two or three villages in Cherwell – proposed pitches should be targeted at less fortunate villages
- Many of the players do not live in Adderbury
- Long term interest is questionable – village could be left with costly white elephant plus a housing estate
- The pavilion and its financing have not been specified
- A recent survey made it clear that majority of residents do not want any development along Milton Road
- Traffic through the village would increase significantly
- Location of complex would make it haven for vandals
- Noise pollution
- Playing and spectating would be difficult as a result of the prevailing winds across the site
- History of community rejecting the requirement for additional pitches
- The existing sports clubs are not able to sustain themselves look to other villages to supplement the teams
- Cannot see that the betterment of facilities is sufficient to justify the loss of landscape with the last approaching rural views over the historic village
- Existing location is central and easy to access by foot and traffic is kept to a minimum
- General public disillusioned with political figures due to the extent of those who have shown themselves to be acting in a self serving interest manner rather than public spirited manner
- Would result in major 'green field' development
- Site is an extension beyond built up limits of village resulting in ribbon development

2 letters of support have been received, the reasons for supporting the proposal are set out below;

- Existing facilities confined to one pitch
- Existing pitch frequently becomes waterlogged
- Existing clubhouse dilapidated
- Access to existing playing field is poor with limited parking
- Existing facilities may not meet the standards set down Oxfordshire Playing Fields Association
- Proposed scheme will overcome each of these concerns
- Will enable junior and youth teams to develop
- New location will improve relationship with neighbours
- The Adderbury facilities are the worst in the league
- Youths would be kept off the streets
- Scheme has evolved and been supported over several years

1 letter has expressed general support for the proposal but raises concerns that the scheme may become a commercial venture to the detriment of the village and local community

### 3. Consultations

3.1 **Adderbury Parish Council** supports the change of use providing it is under the control of the Parish Council, who would lease the site to the football club.

**The Ward Member for the Bloxham Division** has made the following comments;

- Despite misgivings about the residential scheme in terms of density and parking provision I believe that the offer of recreational facilities represents, on balance, a betterment to the village of Adderbury
- Support the application

**The Local Highway Authority** has made the following comments;

The proposed recreational use is related to submitted planning application 10/00512/F (proposal for 35 residential units) which has been considered during the assessment of 10/00508/F.

The submitted layout plan for this application is significantly different to that submitted for 10/00512/F i.e. different layout, different access arrangements, less parking spaces provided etc. Due to the correspondence the Local Highway Authority has had with 10/00512/F with the site's access arrangements the plan that will be assessed for the recreational use will be A425-1-C (as agreed with CDC case officer).

The main access into the site via the Milton Road (unclassified road) will be shared with the proposed residential development. This arrangement was assessed acceptable as the required visibility standards can be achieved. An extension to the existing speed limit will be required as will a financial contribution towards a traffic calming scheme – such improvements have been identified for 10/00512/F; however as this is a separate planning application consideration to such measures has to be assessed individually.

Footway and cycle links are to be provided to the recreational use via the infrastructure being provided for the 35 units – if the proposal for 35 units is unsuccessful such pedestrian links will not be provided. Therefore if this application is approved such infrastructure must be provided by this application.

Looking at drawing A425-1-C the sports pavilion is to be provided with around 40 parking spaces – this appears acceptable. However, there appears to be no justification to why this amount is required or if it will be adequate enough. The shared access road into the site is to be provided with measures to deter on-street i.e. high kerbing etc.

It is assumed the proposed sports pavilion will only be used for recreational uses such as football, cricket etc; however if larger private events are to be held i.e. wedding reception this needs to be confirmed as more information will be required to assess if the parking being provided will be acceptable. Perhaps a restriction preventing such private events should be considered by the Local Planning Authority.

There appears to be no cycle parking being provided – I would expect to see 1 cycle stand (Sheffield stand style) per 20m<sup>2</sup> of the sports pavilion GFA. These facilities are to be sheltered and secure.

It is expected that the football pitches will be lit as will the car park – there appears to be no information on the type of lighting to be used etc. This needs information needs to be provided to deter any lighting spilling over onto the public highway causing a safety issue.

Drainage of the site is essential and must accord with SUDS. Please note new access is likely to require culvert due to ditch along site's frontage (guidance can be sought from OCC's Drainage Engineer Gordon Hunt 01865 815571).

There are a number of issues that require further information; therefore I recommend a "holding objection" is imposed. However if the Local Planning Authority is minded to approve this proposal I would suggest the following conditions are imposed:

1. That prior work commencing on site the proposed means of access (including vision splays) onto the Milton Road is to be formed, laid out and to the approval of the Local Planning Authority and constructed strictly in accordance with the highway authority's specifications and that all ancillary works specified shall be undertaken.
2. That prior work commencing on site the proposed means of access (including vision splays of 2.4m x 33m) onto the proposed access road is to be formed, laid out and to the approval of the Local Planning Authority and constructed strictly in accordance with the highway authority's specifications and that all ancillary works specified shall be undertaken.
3. That the vision splays shall not be obstructed by any object, structure, planting or other material height.
4. That before the sports pavilion is first used the section of the estate roads, footpaths and cycle links shall be laid out, constructed, lit and drained and if required temporary or permanent traffic calming to the Oxfordshire County Council's Specifications.
5. Before the sports pavilion is first occupied the parking and maneuvering areas shall be provided in accordance with the plan (A425-1-C hereby approved and shall be constructed, laid out, surfaced, drained (SUDS) and completed, and shall be retained unobstructed except for the parking and maneuvering of vehicles at all times.
6. That all construction traffic serving the development shall enter and leave the site through the new access; wheel washing facilities on construction sites (for HGVs) should also be requested (when appropriate). Construction travel plan also required i.e. HGVs through middle of village.
7. Prior to the first occupation of the proposed sports pavilion new footway and cycle links are to be provided to the link up to the existing network – will require a Section 278 Agreement.
8. A Transport contribution of £5,000 (index linked to current Baxter indexation prices) towards a traffic calming scheme along the Milton Road, Adderbury is required via a S106 Agreement.

3.2 **Cherwell District Council's Head of Recreation and Health** supports the change of use to recreational.

**Cherwell District Council's Urban Design Officer** has commented on this application in conjunction with the application for residential use. Comments specific to the recreation scheme are set out below;

The application for the sports pitches will extend the village limits as far as Colegrave Seeds complex, which currently sits in open countryside, and will therefore have an urbanising effect, extending the built up character far west along

Milton Road, which would be unfortunate.

**Cherwell District Council's Landscape Planning Officer** has made the following comments;

- It will extend the urbanisation of Adderbury along Milton Road.
- Even though Colegrave Seeds is a fairly large site and out of character with Adderbury in terms of building style, it is fairly well concealed by planting and topography
- The effect depends to an extent on the exact proposals
- Other factors to consider are possible lighting and adequacy of the parking and access and whether there is a need for the facility
- The land is screened to an extent from Milton Road by a narrow belt of trees. Although this will conceal the pitch fairly well it is still changing the land use to a more intensive one with all the ancillary activity that it brings

**The Crime Prevention Design Advisor** has no objections to the proposal but asks that if and when more detailed plans are drawn up they take additional factors into consideration for example the level of parking and licencing.

## 4. Relevant Planning Policies

### South East Plan

**S1** – Supporting healthy communities

**S5** – Cultural and Sporting Activity

**S6** – Community Infrastructure

#### 4.1 Adopted Cherwell Local Plan

**R12** – Minimum provision of public open space in connection with housing developments

**C7** – Topography and character of the landscape

**C13** – Seek to conserve and enhance the environment in areas of high landscape value

**C31** – Uses compatible with residential character and levels of nuisance or visual intrusion

#### 4.2 Non-Statutory Cherwell Local Plan

**R6** – New or extended sporting and recreation facilities

**R8** – Minimum provision of public open space in connection with housing developments

**R11** – Community facilities

**R12** – Noisy sports

## 5. Appraisal

### 5.1 The main considerations are planning policy, visual impact, neighbour impact and highway safety.

### 5.2 Planning Policy

Local and regional planning policies are generally supportive of recreational uses as they can add to community facilities and encourage a healthy and thriving population. However policies also set out that development, including changes of

use, should only be permitted where they do not cause demonstrable levels of harm to the environment or residential amenity.

Policy GB2 of the adopted Cherwell Local Plan allows for changes of use of land within Green Belt for outdoor recreation purposes providing there is no overriding agricultural objection, the visual impact on the rural landscape is not unduly harmful and there are no other conflicts with the plan. Although this application site is not within the Green Belt it is worth noting that Green Belt land has a higher level of protection than this application site and if recreational uses are permitted in the Green Belt there seems no reason not to allow such a proposal in this location providing similar tests are met.

#### Visual Impact

This application is only seeking a change of use of the land for purposes associated with recreation. The Council's Urban Design Officer and Landscape Officer have commented that the change of use of the land will extend the urbanisation of the village. However the site is partially screened by existing hedgerows and it is common to find recreation pitches on the edge of villages and this is considered to be acceptable in most cases. This application for change of use does not include any built structures therefore it is unlikely that there will be any material change in the appearance of the site as a result of approving this application.

If the land is transferred to the Parish Council certain forms of development will become permitted but these are restricted to buildings, works or equipment not exceeding 4 metres in height or 200 cubic metres in capacity.

If and when the Parish Council progress with the construction of a pavilion an application will be required and negotiations between the Parish and the District Council's can help to ensure that the building is positioned in the least intrusive part of the site, limiting the adverse visual impact and potential impact on the nearby Conservation Area and setting of listed buildings within its proximity.

#### Neighbour Impact

The closest residential properties are likely to be on the Colegrave Seeds site to the west. However the closest concentrations of residential properties are on St Mary's Road and Horn Hill Road. Based on the indicative plans the access would be approximately 80 metres from the nearest property on St Mary's Road and the pitches would be double this distance from the same property. Whilst the proposed use will result in an increase in traffic movements to and from the site and will cause some noise whilst in use this is unlikely to cause a detrimental impact on the living environment for the residents of nearby properties.

#### Highway Safety

The Local Highway Authority has responded with a holding objection to the scheme. However when considering their detailed response it seems that a lot of the issues of concern relate to the specific detail of the layout for example provision of sufficient parking spaces. As this application is only for the change of use of the land and the proposed access meets the necessary standards there is no justification for refusing this application for reasons relating to highway safety.

If the land were to be used solely for recreation prior to any building being constructed there would not be any specific parking requirement to meet and hard

standing could be laid to provide a parking area without the need for planning permission, providing it met criteria relating to its permeability. Only at the time of submitting an application for a pavilion building would there be sufficient information on which to assess parking standards.

The proposal on the adjoining site, for residential development, includes footpath links from Horn Hill Road to the proposed access road. However this is not clearly shown on the plans submitted for the change of use but is something that is required by the Local Highway Authority. Therefore an appropriate condition has been included within the recommendation to ensure that this is provided if the scheme were to be implemented in isolation from the residential scheme.

The Local Highway Authority has requested that a contribution towards traffic calming measures be paid in the event of this application being approved. However as this application is solely for change of use and is in isolation to the residential scheme it seems unreasonable to make such a request.

#### Other Issues

Some residents have disputed the need for such a change of use and some have argued that the existing facilities on Lucy Placket Playing Field, in the centre of the village, are still adequate for the needs of the village. However it would seem appropriate to assume that the Parish Council is best placed to identify the recreational needs of the village and they are in support of the scheme. Furthermore the Council's Head of Recreation and Health supports the proposal. There is a general shortage of sports pitches in the rural areas and this will contribute to their provision.

Whilst this application has been submitted for unspecified recreational purposes there is clear indication from the supporting information that the likely use will be for football. However it is not considered necessary to restrict the types of recreational uses as the majority would be similar in nature to football and more intrusive forms of use are likely to require planning permission as a result of the need for alternative surfacing or structures.

#### Conclusion

Whilst the transfer of the land, the subject of this application, to the Parish Council is most likely to occur only if the scheme for residential development gets approved and there are links between the two schemes, it is worth noting that the two proposals have been submitted separately therefore this application for recreation should be considered in isolation, although regard can be had to the residential application. As planning permissions runs with the land it is possible that if the applicants (Benfield Group Holdings) did not implement the consent for recreation somebody else might. Having assessed the proposal on its own merits it is considered that the scheme will not cause demonstrable harm to the visual amenities of the area, the residential amenities of neighbouring properties or highway safety. It is therefore recommended that this application be approved subject to the conditions set out below.

## **6. Recommendation**

**Approval subject to the following conditions;**

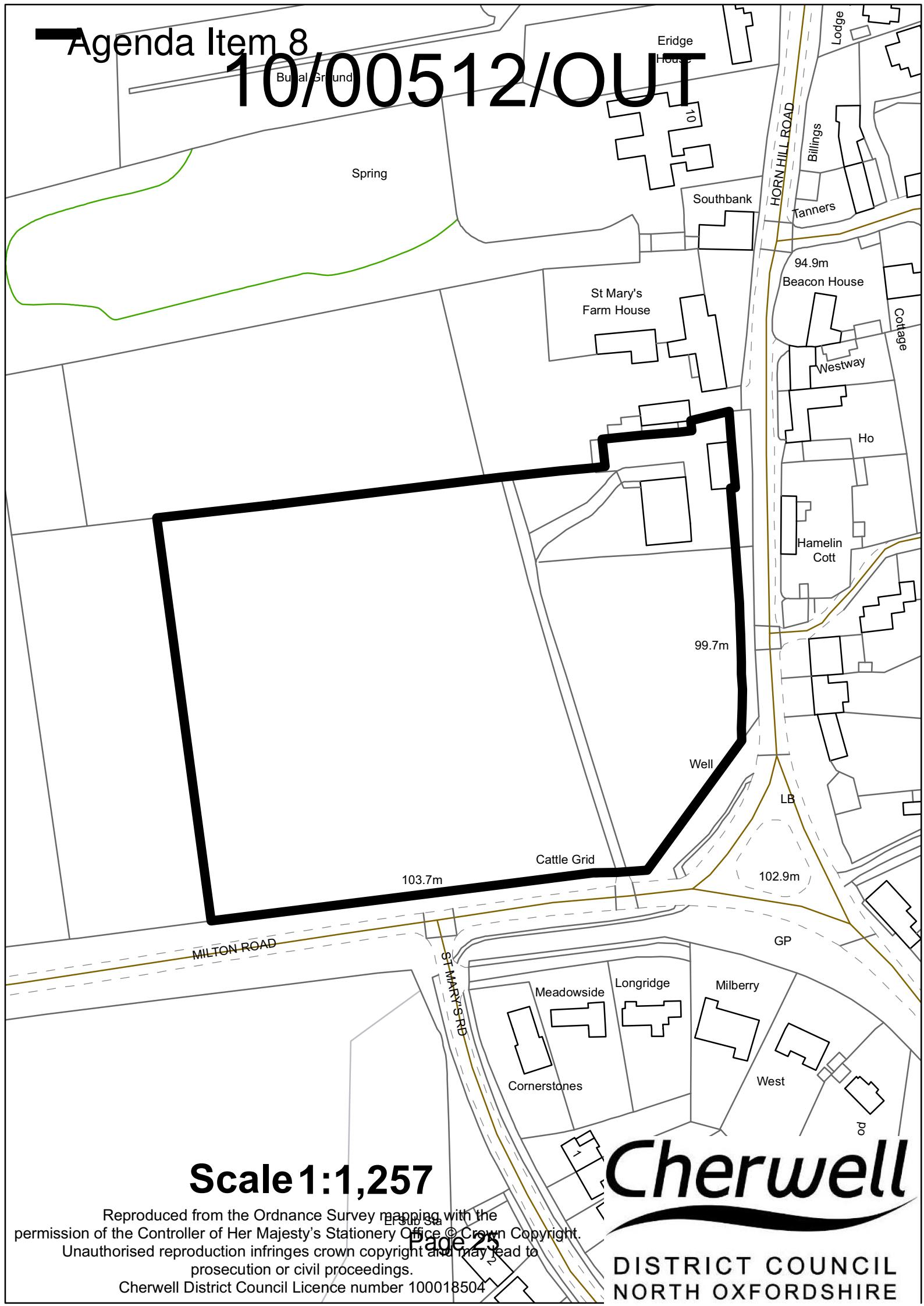
1. SC 1.4A Duration limit (3 years) (RC2)
2. SC 3.0A Submit Landscaping Scheme (RC10A)
3. SC 3.1A Carry Out Landscaping Scheme (RC10A)
4. SC3.4AA Retain Existing Hedgerow (with access) (RC11A) 'Sourthern'
5. That prior to work commencing on site the proposed means of access (including vision slays) on Milton Road is to be formed, laid out and constructed in accordance with the Local Highway Authority's specifications and that all ancillary works specified shall be undertaken. (RC13BB)
6. SC 4.6AA Vision splay protection (RC13BB)
7. Prior to the first use of the site for recreational purposes the required footpath link between Horn Hill Road and the site access and other ancillary off site works are to be constructed, laid out and to the approval of the Local Highway Authority and constructed strictly in accordance with the highway authority's specifications and that all ancillary works shall be undertaken. (RC13BB)

**SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES**

The Council, as local planning authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits as the proposal is acceptable in principle and will not cause undue harm to neighbouring or visual amenity or highway safety. As such the proposal is in accordance with PPS1: Delivering Sustainable Development, PPG13: Transport, Policies S1, S5, S6 of the South East Plan 2009, Policies C7, C13, C31 of the Adopted Cherwell Local Plan and R6 and R11 of the Non Statutory Cherwell Local Plan. For the reasons given above and having regard to all other matters raised, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions, as set out above.

**CONTACT OFFICER: Caroline Roche**

**TELEPHONE NO: 01295 221816**



# 10/00512/OUT

Twyford

Adderbury



**Scale 1:9,413**

**Cherwell**

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<b>Application 10/00512/OUT</b>	<b>No:</b>	<b>Ward: Adderbury</b>	<b>Date Valid: 08/04/2010</b>
<b>Applicant:</b>	KB Benfield Group Holdings Ltd, Coventry		
<b>Site Address:</b>	Land North of Milton Road, Adderbury		

**Proposal:** Outline – Residential development, estate road and open space

### **Context**

The application has been submitted principally on the basis that the Council cannot demonstrate a 5 year rolling supply of deliverable (available, suitable and achievable) housing land. The current shortage in terms of housing numbers equates to 215 dwellings. At the time of writing there are a total of six undetermined housing supply related applications with the Council with the potential to generate some 391 homes. The applications are in Arncott x2, Bicester, Bodicote, Chesterton and Adderbury (the subject of this application). On 20 May 2010 Members refused an application for a development of 65 houses on land South of Milton Road Adderbury. Schemes at Milton Road Bloxham and Orchard Way Banbury totalling 81 units (net) received resolutions to approve subject to legal agreements.

On 27 May 2010 Communities and Local Government secretary Eric Pickles wrote to every local planning authority and the Planning Inspectorate highlighting the coalition Government's plans to abolish regional spatial strategies and stressing that decisions on housing supply "*will rest with LPAs without the framework of regional numbers and plans*". The Secretary of State said councils and the Inspectorate should "have regard to this letter as a material consideration in any decisions they are currently taking". This issue is considered throughout the report and is been afforded the appropriate weight in reaching the recommendation. There has been no further information on the timing of the revocation of the RSSs.

### **1. Site Description and Proposal**

- 1.1 This is an outline application for a development comprising of 35 residential dwellings with associated access, open space and landscaping. The site is a 1.85 hectare parcel of land to the north of Milton Road and west of Horn Hill Road. Access to the site is to be obtained via a vehicular access onto Milton Road, approximately 125 metres from the junction with Horn Hill Road and 50 metres from the junction for St Mary's Road on the south side of Milton Road .
- 1.2 The site is a rectangular parcel of land currently in agricultural use. The site consists of one field. A private vehicular right of access crosses the site in a north to south direction in the eastern part of the site. The entirety of the site lies within an Area of High Landscape Value. The most north easterly section is within the Adderbury Conservation Area and the remainder of the eastern boundary abuts the conservation area. St Mary's Farmhouse to the north and most of the properties to the east, on Horn Hill Road are listed properties. The north eastern section of the site also contains trees protected by a Tree Preservation Order.
- 1.3 In the north eastern section of the site there are some existing metal framed open sided barns. An application was submitted for their demolition as they lie within the Conservation Area. However given their age and the fact that they were last used for agricultural purposes they were exempt from the Conservation Area regulations

and the application was not proceeded with. They are also considered to lie outside the historic curtilage of the listed farmhouse therefore listed building consent is not required. They are not of any particular historic merit and can be removed whether or not this application is permitted.

- 1.4 A separate application has been submitted for land adjoining this site to the west and east of Colegrave Seeds (10/00508/F). The application is for the change of use of the land for recreation. Whilst this is a separate application there is a link between the two schemes as it is intended that if this application for residential development is approved the adjoining land will be transferred to the Parish Council so that two football pitches and a pavilion can be developed. If this application was to be approved there would need to be an agreement linking the two schemes together and ensuring the delivery of the pitches/pavilion.
- 1.5 The application seeks permission for 35 residential properties 30% of which are proposed to be affordable units, resulting in 11 affordable dwellings.
- 1.6 This application is in outline only and all matters with the exception of the access are reserved to be considered in a Reserved Matters application should this application be approved. Although this application is in outline an indicative site plan has been submitted along with a illustrative street scenes, Planning Supporting Statement, a Design and Access Statement, Transport Statement, a Concise Landscape and Visual Appraisal and Arboricultural Impact Assessment, Flood Risk Assessment, Ecological Report and a Contamination Report.

#### 1.7 **Planning History**

There is no recent planning application history relevant to this proposal. But details of an application relating to smaller parcel of land and determined in the late 1970's should be noted

**CHN.884/78** - Erection of 7 single storey dwellings with garages. (on land which forms approximately half of this application site, the eastern edge adjacent to Horn Hill Road) – **Refused** for the following reasons (in summary);

1. Not infilling, a single house or minor development therefore contrary to Interim Rural development Policy
2. Contrary to Oxfordshire Structure Plan as it will not met identified local need
3. Extension of built up limits of village
4. Seriously disruptive effect on Conservation Area and visual amenities
5. Would create a link between two distinct parts of the built up area of the village detrimentally affecting the amenities of the neighbourhood
6. Loss of large section of stone wall
7. Design of dwellings out of character with the area

The application referred to above subsequently went to appeal and was dismissed by the Inspector.

#### **2. Application Publicity**

- 2.1 The application was advertised by way of a site notice, press notice and neighbour notification letters. The final date for comment was 13 May 2010. However letters received after this date have also been taken into consideration.
- 2.2 A total of 273 letters of objection have been received. 234 are on a standard letter

template and a significant number of these have more than one signature. The standard template referred to both this application and an earlier application for development on the south side of Milton Road. The reasons listed on the template for objecting to the proposal are as follows:

- Both sites are outside the built up limits of the village, buildings should therefore be those essential for agriculture, existing undertakings or affordable housing units
- Both sites are major green field developments
- Both sites are extensions into agricultural land
- Both sites are extensions beyond the present village envelope
- The density of both developments is too great and the size of the gardens inadequate
- Neither site is a suitable location
- Both sites require car based journeys to the local primary school
- Because of the car base the village shop will be bypassed to access the nearest major supermarket chain on the southern edge of Banbury
- Inadequate parking provision on both sites
- 40% social housing is excessive for village developments
- The site (10/00512/OUT) is within an Area of High Landscape value, the Adderbury Conservation Area having Grade I and II listed buildings in its vicinity
- Both sites will increase the likelihood of flooding affecting houses to the North in Horn Hill Road due to the increase "run off" caused by the area of rainwater collection from so many dwellings. It is understood that provision is being considered to take account of the worst case storm scenario likely to occur over the next fifteen hundred years.

10 of the objections on the standard template made the following additional comments:

- Learning from pre and post World War II building programmes, all efforts should be made to avoid ribbon development. The developments in Bloxham and Adderbury along the Milton Road would be a significant step in the development of a "ribbon of housing" in the future
- At 35 dwellings, the proposal cannot be regarded as a minor development as identified for Adderbury and the Category A villages (see Inspector's Decision letter dated 29 January 1980, application CHN.884/78)
- The planning gain of the part constructed proposed community facility for the village is not acceptable because of its location at the edge of the village some two miles from the north east part of the village.
- Adderbury does not fulfill the normal criteria of a category "A" village and requires the proximity of Banbury to elevate it to the "A" status.
- Increase in traffic movement throughout the village, particularly Horn Hill Road
- No traffic calming measures to restrict speed of vehicles which is already a problem
- Berry Hill Road, Horn Hill Road, Milton Road is already a "rat run" of speeding motorists
- No capacity at the village school
- Car parking is already an issue at the village school

- Lack of village facilities for additional residents
- Small developments in Adderbury and all other villages would acceptable, for shared equity and first time buyers. This should give priority to local families. New housing should be shared fairly around all villages and hamlets in the district.
- Adderbury will not be a village anymore and will be lost, with Milton, in the urban sprawl
- Village retains a rural feel with listed buildings and attractive landscape and a premium has been paid by current residents to live there. Every village ruined by development is one less attraction for tourism
- The increase in population will add to the demand on local health care facilities

30 further letters were received with the following reasons for objection:

- Percentage of social housing is too high for the size of Adderbury
- The Aynho Road site (land north of Aynho Road and east of Deene Close) jointly controlled by Banner Homes and Gleeson Strategic Land is a more sustainable location as it is closer to local facilities such as the local primary school
- The development would permanently lose a landscape of high value including the last rural approach view over the historic village towards Adderbury Church
- The village of Milton is threatened as an entity by both the developments at its eastern and western parish boundaries (by new developments) with both Bloxham and Adderbury
- There is no need for additional sports facilities, the Lucy Plackett field being under-used at present and a new pavilion being its major lack
- The Oxford/Milton road junction is already dangerous and the extra traffic generated by these developments will exacerbate this
- The creation of two football pitches, clubhouse and recreational facilities would impinge on the rural aspect of the area and the impact of sporting activity on such a grand scale would impair the quality of the surroundings. There would also be the possibility of unsocial behaviour
- Proliferation of CO<sub>2</sub> emissions due to over reliance on the motor car
- Where is the evidence that the proposed football pitches are either wanted or required
- Location of development will discourage integration into the parish
- There was a previous High Court injunction stating that this site should never be built on
- Adderbury is one of the four great ironstone villages of North Oxfordshire; this development will ruin the historic setting of this part of the village
- The proposed development would involve the demolition of the Dutch barns which are listed buildings and are inhabited by Barn Owls which are a protected species. There are also bats, buzzards, hares, skylarks and red kites in this area which would disappear from this site if the development went ahead
- The most recent survey in the village resulted in the majority of Adderbury residents wanting no development along the Milton Road, north or south
- The houses are crammed together insensitively and do not reflect the village
- There is insufficient off-road parking. Coupled with the prominence of the

site, the result would be a total loss of the vernacular character

- The site is 4m above our property and would have the same impact as three and four storey buildings
- In winter, the deciduous trees will no longer give partial visual protection from the new builds
- The density and height of the proposed development on the north side to the Milton Road will dwarf the cottage properties in the east side of Horn Hill Road and will be out of character
- Housing development in Cherwell District Council should be within walking distance of good public transport
- Adderbury appears to be “targeted” as it is surrounded by “spare green fields”. There are equally good locations suitable for developments which can be found within a 5-10 mile radius of the village including the A361 between Bloxham and Chipping Norton and the A4100 from the Baynards Green roundabout to Aynho
- Adderbury already has two adjoining developments of new housing, one being close to the Katherine House Hospice and the other being on the edge of Bloxham
- The effect on the character and appearance of the Adderbury Conservation Area
- We note that the Draft Core Strategy identifies development potential in certain villages, and that site allocations are to be considered in 2011. In this context we are aware that proposals are currently being made (two sites in Adderbury) that are not “windfall” sites, we would therefore express concern at the possible prematurity of such applications and their effect on affordable housing provisions
- There has been a long history of rejected applications for the development of this site.

There have been 5 letters in support of the application for the following reasons:

- The current football clubhouse and changing rooms are inadequate and not fit for purpose. The proposed scheme will provide superb new facilities of adequate size which will be not only a benefit to the football club but to the village as a whole.
- There will be sufficient room for more pitches, good parking and a proper clubhouse. It is not near to houses and will keep the youths off the streets.
- The layout of the site for the houses is excellent and would enhance the entrance to the village
- Adderbury is crying out for adequate community hall facilities which the new proposals will provide
- The new build proposals will provide the facilities to accommodate and develop the many children in the village who wish to play football and who at present, have to travel elsewhere

One letter has been received with two signatures which does not object to the development but comments that as a result of the development there will be a significant increase in traffic along Berry Hill road. They request that provision is made for the construction of a footpath along Berry Hill road with the developer being required to contribute to this.

2.3 **Adderbury Conservation Action Group** (ACAG) has made detailed objections and their main reasons for objecting are set out in the summary above.

### **3. Consultations**

3.1 **Addebury Parish Council** raises no objections to the application on the following grounds (in summary):

- Adderbury should take its fair share in housing required in Category A villages
- Village has already taken 55 at Cheshire Homes and current application for 35 fits in with requirements for Adderbury
- 35 is a manageable number and feel that this entrance to the village, the screening on the Milton Road and for the main neighbour at St Mary's Farmhouse is good
- Request that design of houses is traditional using local stone and slate
- Opposed to use of brick and coloured roof tiles as this area of Adderbury has fine stone houses which should be copied rather than modern estate houses on South of Milton Road
- Number of affordable houses is acceptable in a village of this size and request that CDC ensure that the properties remain available to people with an Adderbury connection
- Also supports extension of the site with land on western boundary, provided it is passed to Parish Council for future use of the community
- Land will be used for new football facility which will greatly benefit the football club and Lucy Plackett field which will be freed for other community uses

3.2 **Oxfordshire County Councillor for Bloxham Division** (Keith Mitchell) has made the following comments in relation to this application, the other application to which he refers is the recently refused application on land South of Milton Road (in summary);

- Grave misgivings about excessive density and inadequate parking provision on site but write in support of application
- Benefits in terms of making good recreational provision for the village outweigh the disbenefits
- The benefit to the village of the addition to recreational provision by donation of land and provision of a clubhouse as proposed in the other application is considerable and worth supporting providing the housing development is of high quality and provides decent living space with adequate parking provision
- Reservations about this proposal are set out below
  - In relation to density the application complies with nationally imposed planning policies but truth is that the homes will be inadequate in space terms
  - Council has opportunity to address some of these issues if you are brave enough to find a way of circumventing some of the excesses of the current government's planning policies.
  - A change in government will mean that national impositions will be swept away speedily
  - If 35 houses are going to be crammed on site must recognise facts,

80% of garages are used for storage space therefore only 20% of garages represent parking spaces

- Every bedroom represents a car before counting deliveries etc. A new parking formula should be adopted
- Hope that residents will not be permitted to monopolise the sports car parking
- Wholly opposed to site south of Milton Road but if this had been permitted support for this application would have been withdrawn.
- North side of Milton Road is less intensive and brings welcome recreational betterment
- To approve both applications would be contrary to the spirit of Council's designation of Category A Villages
- Should find a way of reducing the density and plan for housing that attracted secondary age children rather than primary age where the village school is already full
- A smaller number of larger family homes are likely to contain secondary age children

3.3 The **Ward Member** (Rick Atkinson), has made the following comments (In summary);

The following is a summary of the support by constituents for this development, the site has to be compared with the site on south side of Milton Road.

- Some residents do not want to see any expansion of the village and are large number are against the development on the south side, however given that there are few suitable building spaces within the village boundaries residents will have to accept a fair share of new housing
- Many are willing to accept north of Milton Road because it is the lesser of two evils and it has much to offer the community
- It is on land outside the current boundary but it is a reasonably sized estate which would be shielded from view without spoiling the character of the area
- Adderbury Football Club has been working with developer and Colegrave family for over 4 years to plan layout of site and establish a new club house and sports pitches
- All houses will be faced with local stone
- Houses positioned to be shielded from the pitches
- Position of pitches would ensure the site could not expand into a 'rural sprawl' towards Milton.
- Scheme has the support of Adderbury Parish Council
- Benefits to the community
  - Colegrave family donated adjoining land to accommodate two pitches with space for additional facilities
  - Developer pledged three hundred thousand pounds to the Parish Council towards creation of pitches and building of clubhouse and changing facilities
  - Clubhouse would provide another much needed venue for village activities
  - Main entrance will incorporate traffic calming measures
  - Footpath links will encourage residents to walk or cycle into the village

centre

- The proposed 30% affordable housing is welcomed by the 63 families on the housing list and is considered a reasonable number
- When added to the 55 houses at Cheshire Homes the development will complete Adderbury's quota of 87.5 dwellings stipulated in LDF Core Strategy document

3.4 The **Local Highway Authority** (LHA) has made the following comments;

The submitted TS states that there is unlikely to be an impact on the local highway network from the proposed development due to capacity within the highway network; from reading through (and checking) the information provided such an assessment, in my opinion is deemed reasonable.

A review of the accident data for the area has been carried out, and has highlighted a couple of incidents that have occurred within the last 5 years. Looking through the information provided it appears the incidents that occurred were down to driver error rather than the characteristics of the Milton Road. In light of this data it is considered that the proposed development is unlikely to increase the number of recorded accidents in this area.

The proposed access arrangements for the site meet the required design standards for a road in this location i.e. appropriate vision splay(s) can be achieved. As part of the access arrangements there is a proposal to extend the existing 30 mph speed limit which is desirable. However a traffic calming scheme for this section of Milton Road will also be required, which is likely to include a gateway feature as well as VMS signing. A financial contribution of £10,000 towards a traffic calming scheme along the Milton Road, Adderbury is required.

As part of the proposed off-site works a new footway/cycleway is proposed to link up the site to the existing network, which is acceptable. All the off-site works will require a Section 278 legal agreement with the Local Highway Authority, which will need to be part of a S106 Agreement.

In my opinion the submitted TS appears reasonable.

**Layout comments**

Proposed vision splays at new entrance into site are acceptable.

The proposed (indicative) calming features into the site appear acceptable, but will require more detail if/when reserved matters application is submitted.

Parking levels – due to the location of the proposed site (edge of Adderbury) I will expect to see the site's parking levels to be to the maximum levels, which is around 2 off-street parking spaces per unit (up to 3 beds); 4+ units on merits i.e. 2+ spaces. I understand the level/detail of car parking is to be agreed as part of a future reserved matters application. For future reference the Local Highway will only consider a garage/car port as an off-street parking space when the internal dimensions are 6m x 3m. I note from the submitted (indicative masterplan A425-1-C) that the sports pavilion (separate application) is to be provided with around 40 parking spaces – this appears acceptable, however a separate assessment/recommendation will be carried out with consideration to this proposal. One issue with the access road is the potential for over-spill car parking occurring

for large events at the proposed sports pavilion so it may be appropriate to provide measures to deter this i.e. high kerbing etc.

The layout of the site appears to take into account the guidance in MfS which is desirable, however there are a few issues that will need to be considered for the reserved matters application, such as:

1. Visitor parking does not appear to be being provided within the site – these could be incorporated into the layout of the site and act as calming features if constructed appropriately. Also would deter obstructions from on-street parking.
2. A tracking plan will be required to demonstrate refuse vehicles can turn within site;
3. Drainage of the site is essential and must accord with SUDS. Please note new access is likely to require culvert due to ditch along site's frontage (guidance can be sought from OCC's Drainage Engineer Gordon Hunt 01865 815571).
4. Collapsible bollards will be required at each end of the proposed pedestrian/cycle links to Horn Hill Road to deter misuse and allow maintenance vehicles access. Appropriate lighting should be provided to provide a safe link for residents.
5. Internal vision splays are to be shown for vehicular entrances, including entrance into proposed sports pavilion.
6. There are some internal footways that do not appear to link up – another item to address when a reserved application is submitted.
7. Not keen on the proposed parking court for plots 8, 9, 10 & 11 look tight and not keen on proposed parking layout – tracking plan probably required to demonstrate area can be used.

### **Financial Contributions & Legal Agreements**

The proposed development is likely to add additional pressures to the existing public transport services (stated within submitted TS); therefore a contribution towards these services is required. There is one service which Oxfordshire County Council subsidises for Adderbury – the 59 service, £142k per annum (4 year contact = £568,000) + a Sunday service on the same route, this contract costs OCC £12k per annum (4 year contract = £48,000) = total £616,000.

Oxfordshire County Council continues to seek an enhancement to the existing 59 service from one bus an hour to two (increase in service frequency) as well as improve the Sunday services. Such an enhancement has been priced at an extra £120,000 a year to the current contract; hence the request for funding towards this service from the proposed development.

#### Calculation

2001 population census data for Adderbury = 2,496 (*as quoted in the Oxfordshire Data Observatory*).

£616,000 divide by 2,496 = £246.79 per resident

assuming two residents per residential per dwelling i.e.  $35 \times 2 = 70$

$70 \times £246.79 = £17,275.30$

Public Transport Subsidy Contribution = £17,275.30.

The ongoing objective/strategy of the Rights of Way Group is to improve the surrounding footpath, bridleway etc links in the area through surface upgrades/repairs, new fencing, planting, new gates etc. A contribution of £2,000

(index linked to current Baxter indexation prices) is required towards improving these links.

A Transport contribution of £10,000 (index linked to current Baxter indexation prices) towards a traffic calming scheme along the Milton Road, Adderbury is required.

The Public Transport Subsidy, Rights of Way & Transport contributions are to be secured via a S106 Agreement. All the off-site works will require a Section 278 legal agreement with the Local Highway Authority, which will need to be part of a S106 Agreement. If the development is to be offered for adoption to the Local Highway Authority the developer must enter into a S38 Agreement.

### ***Summary***

The proposed 35 dwellings will be located off the Milton Road (classified unnumbered road) and will be provided with an acceptable access arrangement. The submitted TS has demonstrated there is unlikely to be an impact on the local highway network from the proposed development.

A review of the accident data for the area has been carried out, which found a couple of incidents had occurred; looking at the information provided the incidents involved were down to driver error rather than the characteristics of the Milton Road.

A review of public transport, pedestrian and cycle accessibility was undertaken.

There are a number of design details for the site that will require further consideration if a reserved matters application is to be submitted to the Local Planning Authority in the near future

### **Conclusion**

Taking the above into account it is my opinion that recommending refusal on highway safety grounds would not be appropriate or sustainable at appeal; therefore I recommend that conditions are imposed (as well as securing the required financial contributions and off-site works by legal agreement).

3.5 **Oxfordshire County Council's Strategic Planning Officer** has made the following comments;

- Not reporting fully on the application as resources are being targeted to dealing with LDF consultations and strategic development proposals and it is considered that CDC is best placed to assess the proposal in the light of identified housing needs.
- However, in determining the application we expect your Council to take full account of relevant policies in the SE Plan, and the strategic objectives of Oxfordshire 2030 relating to creating thriving, healthy communities
- the proposal raises the same strategic policy issues as the recent proposal for 65 dwellings to the south of Milton Road, Adderbury and our comments on that application would apply equally to consideration of this proposal
- It should be noted that the local primary school does not have the capacity to cope with the extra demand for places from this scale of development and children would need to travel to schools out of the village where additional school places could be provided, this would lead to unsustainable travel patterns and would be detrimental to creating thriving, healthy communities
- If Council is minded to approve the application, permission should be subject to a legal agreement to secure contributions to necessary

improvements to transport and non-transport supporting infrastructure, including the additional costs of school transport

3.6 The **Council's Strategic Housing Officer** has stated that there are currently 63 people on the housing register with a local connection to Adderbury.

3.7 The **Council's Landscape Planning Officer** made the following comments (in summary)

- The boundary on the E side (Horn Hill Road) faces sandstone properties some of which are listed. It comprises a sandstone retaining wall with a narrow belt of trees, 3 of which have TPO's on them and shrubs which forms a strong boundary with Horn Hill Road. The belt is not dense or deep enough to provide an effective year round screen.
- The S Boundary (Milton Road) has a very closely trimmed hedge which allows views into the site. This could be allowed to grow taller and be supplemented with additional planting to create more of a screen. The species variety in this hedge is limited.
- The N boundary is largely a post and wire fence which is weak and will need planting.
- The W boundary is a post and rail fence with the occasional shrub, this will also need planting
- The wider environs of the site are reasonably well contained visually as they stand. However the situation will change considerably if 2 and 2.5-storey houses are built as proposed. The landscape and visual assessment considers existing views only. It needs to address the likely impact of the development 'as built' by providing some photomontages of the 'as built' scheme. The ground level of the field is raised above the level of Milton Road in places up to c1.0m. This will raise the height and therefore impact of the development from Milton Road. The site is at a high point compared to its surroundings as it exists.
- I walked the Adderbury to Milton footpath for some of its length and could intermittently see the development site, the development will therefore be visible from here.
- I can't see from the plan where the 2.5 storey houses will be. There is no explanation of design rationale, impact on skyline, and no principles to guide detailed design in the design and access statement which only describes what the applicant proposes to construct.
- There are currently no LAP's shown on the development. This will be required as there are 35 dwellings. They will need to be located no more than 100m or one minutes walk along footpaths from all dwellings. This may require more than one LAP. The open space provision seems more than sufficient. A minimum of 680m<sup>2</sup> of play space is needed plus a desired amount of 0.21ha of informal amenity areas.

3.8 The **Council's Head of Building Control and Engineering Services** has no objections but makes the following comments;

- The FRA is insufficiently complete to support a detailed application
- Assessment should consider the effect of the proposed infiltration swale to perform its desired function. It should show that there is a safe overland flood route in this eventuality

3.9 The **Council's Environmental Protection Officer** has made the following comments;

The report submitted with this application has been undertaken in line with current guidance to demonstrate there is no potential risk to human health from the previous land uses. However, the site is underlain by the Marlstone Rock formation and this may contain naturally occurring arsenic which will require a risk assessment to show the site is suitable for its proposed use.

I recommend applying conditions.

3.10 The **Council's Head of Planning & Affordable Housing Policy** comments as follows;

The site comprises approximately 1.8 hectares of agricultural land. The site is not allocated for development in either the South East Plan 2009 or the saved (adopted) Cherwell Local Plan 2011; nor is it allocated in the Non-Statutory Cherwell Local Plan 2011. I consider the main planning policy considerations below.

#### South East Plan 2009

Policy SP3 of the South East Plan states that the prime focus for development should be urban areas in order to foster accessibility to employment, housing, retail and other services and avoid unnecessary travel. LPAs are required to formulate policies which, amongst other things, concentrate development within or adjacent to urban areas and seek to achieve at least 60% of all new development on previously developed land.

Adderbury is not considered to be an urban area and as the application site comprises greenfield land it would not contribute to achieving this 'brownfield' target.

Policy BE5 states that in preparing Local Development Documents (LDDs), LPAs should plan positively to meet the defined local needs of their rural communities for small scale affordable housing, business and services. LDDs should define the approach to development in villages based on their functions performed, their accessibility, the need to protect or extend key local services and the capacity of the built form and the landscape setting of the village. All new development should be subject to rigorous design and sustainability criteria so that the distinctive character of the village is not damaged.

I consider Adderbury to be one of the district's most sustainable villages in terms of the presence of local services and facilities, including a regular bus service, and in view of its proximity to a large urban area. It is a Category 1 village in both the saved and non-statutory Local Plans and is proposed to be a Category A village in the Council's Draft Core Strategy (proposed policy RA1). It is therefore a reasonable location in which to consider accommodating limited development in the interests of meeting the needs of rural communities, particularly the need for affordable housing, in the context of policy BE2. The impact of the proposal on village character will of course need detailed consideration.

Policy H2 of the South East Plan states that Local Planning Authorities (LPAs) will work in partnership to allocate and manage a land supply to deliver both the district housing provision [13,400 dwellings from 2006 to 2026] and sub-

regional/regional provision. In doing so, LPAs are required to take account of a number of considerations including:

- the scope to identify additional sources of supply elsewhere by encouraging opportunities on suitable previously developed sites;
- providing a sufficient quantity and mix of housing including affordable housing in rural areas to ensure the long-term sustainability of rural communities;
- the need to address any backlog of unmet housing needs within the housing market area in the first 10 years of the plan.

The policy requires LPAs to plan for an increase in housing completions to help meet anticipated need and demand. Housing land supply is considered later in these comments.

Policy H3 requires a substantial increase in the amount of affordable housing in the region to be delivered including by taking account of housing need and having regard to the overall regional target that 25% of all new housing should be social rented and 10% intermediate affordable housing. The application's proposal for 31% affordable housing meets the current requirement of the non-statutory local plan. The Council's Draft Core Strategy (para' A.142) states that local housing needs estimates (2009) suggest a need for some 390 affordable homes per year (288 on top of the current average supply of 102 per year). The 2009 Annual Monitoring Report notes however (para' 5.57) that the Council remains on track to meet the Housing Strategy target of at least 600 dwellings from 2005 to 2011.

#### Saved (Adopted) Local Plan 1996

Policy C8 of the saved Local Plan seeks to resist sporadic development in the open countryside whilst policy C7 seeks to prevent demonstrable harm to the topography and character of the landscape (the site lies within an Area of High Landscape Value (AHLV) - see policies C13 and C28). Policy C30 requires the character of the built environment to be considered.

As the proposal entails the loss of greenfield land in open countryside there is a need to consider the district's housing land supply position (below) as well as whether there would be unacceptable harm to landscape and local character.

#### Non-statutory Cherwell Local Plan 2011

Land north of Milton Road was proposed for allocation in the Deposit Draft of the Cherwell Local Plan Review 2011 (published February 2001) for the construction of 45 homes (the plan became the Non-Statutory Local Plan). However, officers recommended, and Members resolved, that the site be deleted from the draft plan at a meeting of the Executive on 10 December 2001.

Policy H1a of the Non-Statutory Cherwell Local Plan 2011 sets out criteria for considering proposals for new housing development which include the availability and suitability of previously developed sites and empty or under-used buildings for housing and, in the case of category 1 and 2 villages such as Adderbury, whether it would meet an identified local housing need (not just affordable housing). These policies must now be considered in the context of Planning Policy Statement 3 (Housing) which provides current national policy on managing housing land supply (see below).

The Non-Statutory Plan contains similar restrictions on building beyond the built up limits of settlements and to achieve protection of the landscape and local character as the saved local plan (policies H19, EN30, EN34 and D3).

Policy R6 of the Non-Statutory Plan encourages the provision of new or extended sporting and recreation facilities. Policy R8 sets out standards for the provision of children's playspace and formal sports provision, and policy R9 seeks provision of amenity open space. I understand that comments on recreation / open space provision are to be provided separately from this response

#### Housing Land Supply

Planning Policy Statement 3 (PPS3) requires a flexible supply of land for housing by, amongst other things, maintaining a five-year rolling supply of deliverable (available, suitable and achievable) housing land. LPAs are required to monitor the supply of deliverable sites on an annual basis, linked to the Annual Monitoring Report review process.

The Council's 2008 Annual Monitoring Report (AMR) noted that the district had a 5.3 year rolling supply for the period 2009-2014. The 2009 AMR shows that for the same period the district now has a 4 year supply rising to 4.5 years for 2010-2015 and 5.1 for 2011-2016. However, on 18 February 2010, the Planning Committee resolved to grant permission, subject to legal agreement, for 33 social housing units (20 net additional homes) at the Orchard Way Shopping Parade, Banbury; and, on 11 March 2010 the Committee resolved to grant permission, subject to legal agreement, for a development of 61 homes on land south of Milton Road, Bloxham. Those developments are considered to be deliverable by 2015 and increase the rolling supply of deliverable housing land for 2010-15 (i.e. for the current monitoring year - 10/11 ) from 4.5 years to 4.6.

PPS3 requires scenario and contingency planning to identify different delivery options, in the event that actual housing delivery does not occur at the rate expected. Policies and proposed management actions are expected to reflect the degree to which actual performance varies from expected performance, as indicated in housing and previously developed land trajectories. Where actual performance, compared with the trajectories, is within acceptable ranges (for example within 10-20 per cent), and future performance is still expected to achieve the rates set out in the trajectories, PPS3 states that there may be no need for specific management actions at that time and that LPAs will wish to continue to monitor and review performance closely and consider the need to update the five year supply, of deliverable sites where appropriate.

In accordance with PPS3, the district's rolling supply of deliverable housing land takes no account of unidentified, small site windfalls. Planning permission does exist for some additional 500 homes which if 90% implemented would be more than enough to boost rolling supply over 5 years in 2010/11. However, small, unidentified windfalls cannot be considered until they are recorded as complete. New LDF sites will also emerge over the next couple of years, boosting both near and long-term supply. Once such sites are considered to be available, suitable and achievable as defined by PPS3 they could be considered as part of the rolling supply of deliverable sites.

At the present time, however, it is considered that there remains a need to

increase the supply of housing that will be delivered over the period 2010/11 to 2014/15 so that the rolling supply of deliverable land increases back towards 5 years (from 4.6 years) for the year 2010/11. Recorded housing completions are expected to be low in 09/10 with a provisional figure of 444 compared to a South East Plan requirement of 670 per annum. Completions are expected to be lower in 10/11 as projected by the AMR (181 excluding unidentified 'windfalls' on small sites of less than 10 dwellings).

PPS3 states that where LPAs cannot demonstrate an up-to-date five-year supply of deliverable sites, they should consider favourably planning applications for housing, having regard to the policies in PPS3 including the following considerations:

- achieving high quality housing
- ensuring developments achieve a good mix of housing reflecting the accommodation requirements of specific groups, in particular, families and older people;
- the suitability of a site for housing, including its environmental sustainability;
- using land effectively and efficiently;
- ensuring the proposed development is in line with planning for housing objectives;
- reflecting the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives.

In the context of the district's current housing supply position, this application should be carefully considered to see whether or not it meets PPS3 criteria as well as other policy considerations including the South East Plan, the saved policies of the adopted Cherwell Local Plan 1996 and the Non-Statutory Cherwell Local Plan 2011.

As a 'regulation 25' consultation document, the Council's Draft Core Strategy carries little weight. However, it sets out proposed directions of growth for the district having regard to available evidence. Proposed policy RA2 envisages about 350 homes to be distributed between Adderbury, Bodicote, Bloxham and Deddington. This equates to about 88 homes per village. The Draft Core Strategy states that at this stage the number of homes will be divided broadly equally between the villages but that the precise number of homes to be allocated to individual villages will be determined separately in a Delivery Development Plan Document. 61 homes have recently been approved at Bloxham and at the time of writing there are applications in for a further 186 homes at these four villages (inclusive of the current application). This includes a further 65 at Adderbury. This is within the 350 presently envisaged for the four villages but slightly more than might be expected at Adderbury in advance of site specific analysis for the Delivery DPD. This needs to be weighed against the overall current housing need and any benefits arising from the proposal. Careful consideration should also be given to detailed issues including the site's relationship with the village's built up area and accessibility to services and facilities.

If the proposed development were to be considered favourably, it must be clearly demonstrated that the site is deliverable (available, suitable and achievable) and capable of being recorded as complete by the end of the next 5 year rolling period i.e. by 31 March 2015. Completions after this date would have no effect on increasing the rolling supply for 2010/11 from 4.6 years. Sufficient certainty is

needed to enable the site to be added to the district's rolling supply of deliverable housing land upon any resolution to approve. If shown to be deliverable, it is expected that the site would increase the rolling supply of deliverable housing land for 10/11 from 4.6 to 4.7 years.

I understand that at the time of writing there are another four planning applications (for 10 or more dwellings) which together have the potential to generate about 354 dwellings. Please note that on this basis, if the application for north of Milton Road, Adderbury were not to be approved, there would still be the potential to return to a 5 year rolling supply. (However at the time of drafting the report the situation has changed and only three of the four applications referred to above remain undetermined and have the potential to generate about 289 dwellings. A further 2 applications have been submitted for residential schemes in Arncott which have the potential to increase the provision to 356 dwellings).

In relation to references to the South East Plan regard should now also be had to the content of Eric Pickles letter dated 27 May 2010 which is set out in full at the end of 5.2 below.

- 3.11 **Oxfordshire County Council's Archaeologist** suggests that the site concerned lies within an area of some archaeological interest. The possibility of finds occurring during the course of construction should be borne in mind, in which case the applicant is asked to notify the County Archaeologist in order that he may make a visit or otherwise advise as necessary.
- 3.12 The **Environment Agency** has no objection to the application providing a condition is imposed. Without the inclusion of the condition the proposed development would pose an unacceptable risk to the environment and the EA would then object.
- 3.13 **Thames Water** has made the following comments;
  - With regard to surface water drainage it is the responsibility of the developer to make proper provision for drainage to ground, water courses or a suitable sewer, additional guidance is provided.
  - Thames Water has identified an inability of the existing waste water infrastructure to accommodate the need of this application. A condition should be imposed if the LPA approve the application.
  - There are public sewers crossing the site, approval must be sought from Thames Water where the erection of a building or an extension to a building or underpinning work would be over the line of or would come within 3 metres of a public sewer.
- 3.14 **Thames Valley Police Crime Prevention Design Advisor** has made the following comments;
  - No objections to the layout of 35 houses
  - In relation to the pedestrian and cycle link across the east side of the site there is adequate surveillance over most of the route however at the Horn Hill Road end of the path it could disappear into trees and shrubbery. A slight realignment of Plot 29 could give a view along this section
  - Further advise is given in relation to the future layout
- 3.15 The **Council's Design and Conservation Team Leader** has commented on the

impact on the historic environment and has made the following comments; The application for the sports pitches will extend the village limits as far as Colegrave Seeds complex, which currently sits in open countryside, and will therefore have an urbanising effect, extending the built up character far west along Milton Road, which would be unfortunate.

The application for the residential development lies close to St Mary's Farmhouse, a grade two listed building and four other listed buildings on the east side of Horn Hill Road and also abuts the Adderbury Conservation Area boundary. Neither of these matters is referred to in the Design and Access Statement. The effect of the development on the setting of the listed buildings and on the conservation area has not been a consideration in the evolution of the design. There is also no analysis of the context in terms of the form, character, scale etc of the existing settlement to inform the design process. This is also an oversight and means that the Design and Access Statement falls far short of what it should be doing. The document merely describes what is proposed in the indicative layout; it does not explain or justify the design principles behind the design. Given the sensitive location this is a gross oversight.

As a consequence the submitted illustrative layout would in my opinion cause harm to the setting of the conservation area in introducing a form of development that comprises

- a "new estate road with 2m pavements either side" (to quote from the DAS)
- a layout a far from reflective of the established character of the conservation area, despite the claim in the DAS that the RM application would comprise a "form of development which reflects traditional development in the village"
- an environment dominated by standard highways with standard footways, driveways to double garages etc
- minimal frontage to Milton Road or to the public open space along Horn Hill Road
- that does not reflect the established character of the village.

Nor is there any reference in the DAS to the Adderbury Conservation Area Appraisal which identifies that "*the C20th century extensions to Adderbury are quite distinct from the historic core and do not disturb the integrity of the conservation area. The settings of the two historic cores are therefore largely unspoilt.*" This application would be the first incursion of such a scale in West Adderbury.

The Inspector in the 1980 appeal decision on CHN884/78x found that "*the proposal would represent a significant and undesirable extension of the village limits and would form an unacceptable intrusion of residential development into open countryside.*" This appeal concerned only 7 dwellings on approximately half the current site area and did not include 2 pitches and pavilion. The inspector also makes some pertinent remarks about the relationship of the Horn Hill properties to the landscape, which I will not reproduce in full here, but which I endorse and continue to be valid now as they were at the time of the appeal..

The existing rear farm access to St Mary's farmhouse is an historic route which is shown on the 1875 OS map and others and indicates the relationship of the farmhouse with its farm land. Whilst this is no longer a working farm it is important to enable this historic relationship to be appreciated. The intended approach seems to be via a fairly tortuous route through the proposed housing estate. I consider that this would cause harm to the setting of the listed building.

The Design and Conservation Team Leader recommends refusal for the

application as it is considered to be contrary to;

**SE Plan Policy BE6: MANAGEMENT OF THE HISTORIC ENVIRONMENT**

**Adopted Cherwell Local Plan Policies C27, C28, C30, C33**

3.16 The **Council's Urban Design officer** has commented on the layout of the proposal and makes the following comments;  
Having assessed the submitted drawings and supporting information I have the following concerns:

- The development is poorly integrated with the rest of the village. There are limited routes out of the development other than the vehicular access or the footpath which runs between plots 13 and 18.
- There is a lack of frontage to Milton Road, Horn Hill Road and in terms of the buildings within the development. I consider the buildings should be used to form the edges of the public realm, rather than in many cases being set back from the road. The location of buildings along footways is an important characteristic of Adderbury.
- Plot 18 is turned through 90 degrees away from the footpath which creates a lack of natural surveillance. Whilst there are some plots which look over the path, but it is at best sporadic and in many case they are set back from the path itself.
- The indicative layout includes two possible access points into the land to the north. Further clarification on the need/ purpose of these connections is required.
- The proposed car park for the pavilion forms the first view of Adderbury when approaching from the West along Milton Road which is unfortunate.
- There is a large area of hard standing/ unclaimed green space outside the front of plot 27. It is possible that this area may become an impromptu parking area.
- Whilst the proposed building plots are located away from the existing bank and wall on Horn Hill Road, it is imperative that this wall is protected and development does not cause any collapse.
- The proposed building plots along the western side of the development, whilst they are separated by a reasonable amount from the listed buildings of Horn Hill Road, they will restrict views of them and into the Conservation Area from Milton Road.
- The proposed buildings are in general large and detached properties which do not reflect the building morphology of the Conservation Area or Adderbury as a whole.
- The proposed new path from Milton Road to Horn Hill Road is a duplication of the existing footpath which runs around the edge. I do not consider that there will be many people who will use the path.
- The application suggests that land to the west of the site will accommodate two football pitches. Therefore there does not seem to be any reason for the open space which has been left in the North West corner of the application site.
- Plots 1 and 2 face in the wrong direction. They have a projecting gable to the road, rather than a simple flat façade as is seen elsewhere in Adderbury.

The indicative layout mentions a village gateway feature. I do not know what this is or where it would be located.

In summary I consider the works proposed in the application to be unacceptable for

the reasons given above.

The application does not accord with the following national and local policy or guidance:

- **Planning (Listed Buildings and Conservation Areas) Act 1990**  
States under section 72 (1) that '*special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area*'.
- **PPS1**  
States under the sub heading 'Design' (2) that '*design which is inappropriate in its context, or which fails to take opportunities for improving the character and quality of an area and the way it functions, should not be accepted*'.  
States under the sub heading 'Design' (3) that '*Good design should:*
  - *address the connections between people and places by considering the needs of people to access jobs and key services;*
  - *be integrated into the existing urban form and the natural and built environments;*
  - *consider the direct and indirect impacts on the natural environment*.
- **PPS5**  
States under policy HE10.1 '*when considering applications for development that affects the setting of a heritage asset, Local planning authorities should treat favourably applications that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset*'.
- **Adopted Cherwell Local Plan, C27, C28, C30**

3.17 The **Council's Arboricultural Officer** has made the following comments;

- A row of mature Ash and Horse Chestnut trees are situated on the North western boundary. The development has allowed for their retention by situating the buildings well away from them. The foot path will need to be outside the RPA's . Protection barriers will still be required to ensure no movement or storage over the root areas of the trees.
- A semi mature hedge row is situated on the south western boundary of the site. This includes dead and dying elms which would be better removed than retained. The survey described below will highlight those trees not worthy of retention in addition to the extent of protection barriers.
- A semi mature hedge row is situated to the north of the site. It is not clear from the appraisal layout 3 how close the proposed properties along this boundary are from the hedge. These should be included in the Arb. report and protection barriers included on the Tree Protection Plan.
- Trees within the curtilage of St.Marys Farmhouse lie within the Adderbury Conservation Area.
- A survey of the above trees in addition to any on the periphery of the site which may be affected by, or have an effect on the development should be carried out. An Arboricultural implication study, arboricultural method statement including tree protection plan showing the positioning of protection barriers, storage areas, site huts and contractor parking as per BS5837 should be provided.

**Recommendations:**

Sufficient information needs be provided regarding tree retention and protection measures. An Arboricultural Implication Study, Arboricultural Method Statement including tree protection plan showing the positioning of protection barriers, storage areas, site huts and contractor parking as per BS5837 should be provided.

3.18 **English Heritage** has made the following comments;  
Do not wish to offer any comments on this occasion and recommend that the application be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

#### **4. Relevant Planning Policies**

4.1 South East Plan

**SP3** – Urban Focus for development  
**CC7** – Infrastructure and implementation  
**H2** – Managing the delivery of the regional housing provision  
**H3** – Affordable Housing  
**H4** – Type and size of new housing  
**BE5** – Village Management  
**BE6** – Management of the Historic Environment  
**AOSR1** – Scale and location of housing development in the rest of Oxfordshire

**27 May 2010** – Letter from Eric Pickles

4.2 Adopted Cherwell Local Plan

**H13** – Residential Development in Category 1 Settlements  
**H18** – New dwellings in the countryside  
**C13** – Conserve and enhance the environment in Areas of High Landscape Value  
**C27** - Respect for historic development pattern  
**C28** – Standards of layout, design and external appearance  
**C30** – Standards of appearance, design, layout, scale, density compatible with surrounding area and standards of amenity  
**C33** – Retention of undeveloped gaps

4.3 Non Statutory Cherwell Local Plan

**H15** – Residential Development in Category 1 Settlements  
**H19** – New dwellings in the Countryside  
**EN34** – Conserve and enhance the character and appearance of the landscape

4.4 **PPS3 - Housing**

**PPS5 – Planning For the Historic Environment**

#### **5. Appraisal**

5.1 Main Planning Considerations

The main issues to consider in the determination of this application are as follows –

- Planning Policies
- Housing delivery and need
- Landscape and historic impact
- Design and neighbouring amenities
- Highway Impact

- Other material considerations

Each of the above points will be considered in turn.

**5.2 Planning Policies**

5.2.1 The adopted Cherwell Local Plan contains no specific allocation for the application site. It is therefore defined as countryside (i.e. previously undeveloped land) where there is a presumption against general residential development on unallocated sites without any special justification.

5.2.2 Policy H13 of the adopted Local Plan states that new residential development within Category 1 settlements, such as Adderbury, is restricted to infilling, minor development within the built up area of the settlement and the conversion of existing buildings; subject to other policies in the Local Plan.

5.2.3 Policy H18 of the adopted Local Plan states that new dwellings beyond the built up limits of settlements will only be permitted where they are essential for agricultural or other existing undertakings.

5.2.4 The site clearly lies beyond the existing built limits of Adderbury and in an area of open countryside. The built up limits of the village in this case would be the southerly elevation of St Mary's Farm house.

5.2.5 The proposal is not infilling, nor within the built up area of the settlement and the development is therefore contrary to Policies H13 and H18 of the adopted Cherwell Local Plan.

5.2.6 Policy C13 of the adopted Cherwell Local Plan states that within designated areas of high landscape value the Council will seek to conserve and enhance the environment. This policy will be considered in more detail in the assessment of landscape impact.

5.2.7 The application site has no specific allocation in the Non-Statutory Local Plan and is therefore defined as open countryside.

5.2.8 Policy H19 states that permission will only be granted for the construction of new dwellings beyond the built-up limits of settlements when it is essential for agriculture or other existing undertakings, or to provide a small, low-cost, affordable housing exception site to meet a specific and identified local housing need that cannot be satisfied elsewhere. Policy H15 of the same plan identifies Adderbury as a Category 1 village and states that new residential development will be restricted to infilling, minor development comprising small groups of dwellings within the built up area of the village and conversions.

5.2.9 The proposal is contrary to Policies H15 and H19 of the Non-Statutory Local Plan for similar reasons to those outlined above in relation to the adopted Cherwell Local Plan.

5.2.10 On 27 May 2010 all Chief Planning Officer's were sent a letter from Eric Pickles, The Secretary of State, which sets out the intention to abolish Regional Strategies. The letter read as follows;

*I am writing to you today to highlight our commitment in the coalition*

*agreements where we very clearly set out our intention to rapidly abolish Regional Strategies and return decision making powers on housing and planning to local councils. Consequently, decision on housing supply (including the provision of travellers sites) will rest with Local Planning Authorities without the framework of regional numbers and plans.*

*I will make a formal announcement on this matter soon. However, I expect Local Planning Authorities and the Planning Inspectorate to have regard to this letter as a material consideration in any decisions they are currently taking.*

5.2.11 Officers are of the view that although this is a material consideration the Regional Strategies are still current adopted policy. In this case the South East Plan is still the relevant adopted policy and until further guidance is received on what will replace Regional Strategies decisions should still be made in accordance with it.

5.3 Housing Delivery and Need (SE Plan and PPS3)

5.3.1 The Council's current position on housing delivery is set out in the comments of the Head of Planning & Affordable Housing Policy's set out at 3.10 above. It is not yet clear how and when the intention to abolish Regional Strategies will materialise and what the full implications of it are. However based on adopted policy the Council currently has less than a five year housing land supply, as required by PPS3, identified at the current time. However for the current proposal to impact on this it would need to be demonstrated that it would be delivered by March 2015. Despite the application being in outline only the proposal seeks to demonstrate that this can be achieved. It is common practice when granting consent for outline proposals to allow up to 3 years for the submission of the reserved matters application and a further 2 years for the implementation of an approved reserved matters application. However in order to demonstrate deliverability the agent on behalf of the developers have made the following statements;

- The developers have an option on land subject of the application granted by the owners
- The intention is to exercise this option upon the grant of outline planning permission and to then proceed immediately with the preparation of an application for the Approval of Reserved Matters
- Developers are aiming to commence development on site next year and they are prepared to accept a condition on any outline planning permission requiring the submission of a reserved matters application within one year and the commencement on site within one year of the final approval or two years from the date of the outline planning permission.
- The scheme is financially viable and the owners and applicants are keen to bring the land forward for development and to include the community benefits set out in the draft Heads of Terms (including the contribution of three thousand pounds towards the recreational facilities.

5.3.2 In the event of an approval, to encourage the scheme to be delivered within the next five years it would be reasonable to shorten the timescales of both the outline and reserved matters applications to be no more than two years in total. Whilst an outline application is less favourable in deliverability terms than a detailed application, as the final layout and design of the scheme is not being considered, the ability to adjust the time limits on any approval means that the overall time limit could be the same as that recently imposed on the application for residential

development at Milton Road in Bloxham (09/01811/F).

5.3.3 In addition to this demonstration of deliverability PPS 3 requires sites coming forward to meet the following requirements ;

- provide high quality housing;
- provide a good mix of housing reflecting the accommodation requirements of specific groups, in particular, families and older people;
- be suitable site for housing, including its environmental sustainability;
- represent an effective and efficient use of land;
- be in line with planning for housing objectives;
- reflect the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives.

5.3.4 Whilst the developers have set out their intent in terms of commencing development the Council is in receipt of several letters from Solicitors acting for both the owners of St Mary's Farmhouse, to the north of the site and the landowners of the application site respectively. St Mary's Farmhouse has the benefit of a private right of vehicular access across the land. The original indicative plan shows that this access would be diverted to follow the new access and meander through the development to the existing point of access on the boundary. A revised indicative plan shows that the alignment of this route has been retained but vehicular access at the existing point of access from the road will not be possible. It is clear from the letters that have been received that the residents of St Mary's Farmhouse are not satisfied with this proposed arrangement and will not readily agree to the re-routing of the access. They therefore question the deliverability of the site. In response to this the landowner's solicitors have stated that the private agreement allows for an alternative access across the field to be provided without affecting the terms of the right of way agreement thus having no bearing on the question of deliverability. Further more the point is made that this application is in outline only and as such any outstanding issues in relation to the right of access could be resolved before or during the consideration of a Reserved Matters application. This is clearly a private legal matter between the owners of the site (and the developers) and the owners of St Mary's Farmhouse. The Council's Head of Legal & Democratic Services has advised that this private matter is not a planning consideration.

5.3.5 Adderbury has consistently been allocated as one of the District's most sustainable villages capable of accommodating further housing development. Facilities in Adderbury include; pre-school, primary school, food shop, 4 pubs, recreation area, village/community hall(s), Post Office and a regular bus service to Banbury. It continues to be allocated as such in the Draft Core Strategy. Therefore in general terms Adderbury is a preferred location for the allocation and provision of land for housing. This scheme provides a mix of market and affordable dwellings. It is considered that to an extent this could contribute to meeting the shortfall in housing land supply and will go some way to meeting local needs for affordable units of accommodation.

5.4 Landscape and Historic Impact

5.4.1 The site lies within the Ironstone Downs Area of High Landscape Value where policies C13 and C28 of the adopted Cherwell Local Plan seek to conserve and

enhance the environment and require development to be sympathetic to the character of the area. Policy EN34 of the Non-Statutory Local Plan also seeks to conserve and enhance the environment.

- 5.4.2 The site lies beyond the built-up limits of the village in an area of open countryside. The site is physically contained within existing hedgerows, the Colegrave site and land in private ownership to the north. However given the relatively flat topography the development within it would clearly be visible, despite hedgerow screening along the frontage.
- 5.4.3 The current open field allows for views across it from the Milton Road towards the edge of the conservation area. The proposed new development will obscure such views neither preserving nor enhancing its character and appearance.
- 5.4.4 The Council's Landscape Officer has made some comments in relation to the position of the play space, size of some gardens and the ability to provide additional planting. Whilst these are very relevant points and can affect the overall quality of the final scheme they are not issues which should have a negative influence in considering this outline application. They are all issues which should be straightforward to resolve at reserved matters stage by slight amendments to the layout of the scheme which is only indicative at this stage.

## 5.5 Design and neighbouring amenities

- 5.5.1 The application has been submitted in outline only therefore the submitted layout plan is indicative only. The indicative plan demonstrates that the proposed number of units can be accommodated on the site but what it fails to do is demonstrate that a satisfactory form of development can be achieved in terms of good urban design that reflects that in the surrounding developed area of Adderbury and protects or enhances the character and appearance of the Conservation or the setting of surrounding listed buildings. See the comments of the Urban Design and Conservation Team Leader and Urban Design Officer at 3.15 and 3.16 above for a thorough assessment of these impacts.
- 5.5.2 It is clear from the comments of the Urban Design and Conservation Team Leader that there is an 'in principle' objection to this development in light of the extension into the open countryside and its subsequent impact on the Conservation Area and listed buildings. This is a view shared by the Planning Inspectorate back in 1980. It is considered that these are still relevant considerations.
- 5.5.3 Despite this 'in principle' objection revised indicative plans have been submitted in an attempt to overcome some of the concerns. Further comments from the Design and Conservation Officer's have been received which comment on the detail of the scheme but in general it is not considered that the amendments can overcome the 'in principle' objection.
- 5.5.4 The proposed scheme results in a housing density of approximately 31 dwellings per hectare. Such a density is likely to be greater than that found on nearby sites and is just above the minimum of 30 dwellings per hectare as was recommended in PPS3 Housing prior to its revision in June of this year. In the absence of any revised or agreed locally set density figures it is considered that a density of 31 dph is appropriate for a village location, subject to a satisfactory layout being achieved.

5.5.5 The submitted application forms state that the materials to be used for the development would be a combination of stone and brick and slate or tile. These materials would be appropriate in principle but in the event of an approval samples would need to be submitted for final approval at Reserved matters stage.

5.5.6 The only residential property that shares a boundary with the application site is St Mary's Farmhouse. The residents have raised objections in terms of loss of privacy and overbearing as a result of the proximity of the proposed houses and the elevated nature of the site. Notwithstanding the impact on the setting of the listed building it is considered that any potential harm caused in terms of overlooking and overbearing can be adequately addressed at the reserved matters stage in the event of an approval. There is adequate space within the site to ensure that the Council's informal space standards can be met between the properties and that footpaths are routed so as to not affect privacy.

5.6 Highway Impact

5.6.1 The Local Highway Authority (LHA) has not raised any objections in relation to highway safety issues that would be sufficient to recommend refusal for the scheme. Full comments are set out at section 3.4 above. The development includes proposals to extend the footpath on the north side of Milton Road to link to the existing footpath at Horn Hill Road.

5.6.2 The application forms have not specified the number of spaces to be provided and the indicative plans are not detailed enough to fully assess this. However the applicant is aware of the standards that need to be met in relation to parking provision and this is an issue that could be fully resolved at the reserved matters stage should this application be approved. It appears that there is sufficient space on the site to accommodate the spaces that will be required.

5.7 Other Considerations

5.7.1 Planning Obligation

The proposed development would generate a need for infrastructure and other contributions, that need to be secured through a planning obligation, to enable the development to proceed. Negotiations are underway which seek to secure sufficient contributions towards the infrastructure required as part of this development. Although details are still being discussed it is likely that heads of terms will include;

- Affordable housing
- Open space contributions
- Public art
- Highways and public transport contributions
- County Council Education contributions, including funding towards primary school transport
- County Council Library contributions
- County Council Day Centre for the Elderly contributions
- County Council waste recycling contributions
- County Council Museum Resource
- District Council refuse bin contributions
- District and County Council administration/monitoring fee

5.7.2 However at the time of drafting this report there has been very little by way of

negotiations in relation to the sums requested but the heads of terms would be similar to those set out in the submission.

5.7.3 In 3.5 above the County Council states that the development is likely to result in unsustainable travel patterns as Primary School students are likely to have to travel to schools outside of Adderbury and for these reasons they object to the proposal. This would occur because the County Council indicate that the Adderbury Primary School has insufficient capacity, and is not capable of being enlarged. The above education contribution would therefore be used expand capacity at the receiving schools (Bloxham and/or Deddington). The County Council states that if the district is minded to permit the development contributions should be sought to improve transport infrastructure and primary school transport costs. Contributions towards transport and education infrastructure are standard requirements and included in the list above. A request for contributions towards the cost of transportation to primary schools has been received from the County Council. This request does not result in the objection being removed as the contribution does not prevent the need for children to travel outside of the village. However what it would do is provide money towards communal modes of transport, which is more sustainable than if students were to be transported individually by private car.

5.7.4 In addition to the above contributions the applicants intend to transfer land, the subject of a separate planning application, to the Parish Council for community recreational use and a contribution of three hundred thousand pounds to the layout out of the pitches and the provision of a sports pavilion/village hall. These elements would not normally be required for a development of this scale but as they form part of a linked application they can be secured by the S106 agreement and will be required. It is worth noting however that the approximate cost of laying out one sports pitch is eighteen to twenty thousand pounds whilst a pavilion can cost in the region of four hundred thousand pounds. It is therefore likely that in order for the Parish Council to fulfil their desire for two pitches and a village hall/pavilion a further substantial amount of funding will need to be committed to the project.

5.7.5 In a letter from the developers agents, dated 28 May 2010, it is stated that the scheme is financially viable. However there remains some doubts about the financial viability of the scheme given that there are only 35 dwelling proposed to be built yet the developers are offering to transfer land at no cost, and contribute to the provision of the pitches and the pavilion. Given the costs that are set out above it casts doubts over whether the scheme, inclusive of the pitches and pavilion could be delivered within the necessary time period to contribute to the current housing land supply shortage.

5.7.6 Recent refusal of planning permission on land south of Milton Road, Adderbury  
Whilst this application should be considered on its own merits a recent application for a development of 65 dwellings with a sports pitch and changing facilities on land south of Milton Road is a material consideration. This application was refused following Members resolution on 20 May 2010. The reasons for refusal are set out below;  
*The proposal represents development beyond the built up limits of the settlement and will cause harm to the character and appearance of the countryside. Notwithstanding the Council's short term inability to demonstrate that it has the 5 year supply of housing land required by PPS 3 Housing, the development of this*

*site cannot be justified on the basis of a temporary land supply deficiency alone, a development of this scale is inappropriate at this time given the existing lack of provision of village facilities . As such The proposed development is contrary to the saved policies H13 , H18 and C7 of the adopted Cherwell Local Plan and Planning Policy Statement 3 Housing.*

5.7.7 In relation to the application for development on the South side of Milton Road Officer's considered that whilst there would be an impact to the open countryside the harm caused would not be so great that a recommendation on these grounds would be reasonable given the current shortage in housing land supply. However, Members took a different view, one which could equally apply to this scheme, although the development is of a smaller scale. Furthermore this site has additional areas of concern as it is not considered to preserve or enhance the Conservation Area nor does it protect the setting of listed buildings. It is therefore considered that there is not sufficient justification to recommend approval for such a development on the basis of a temporary land supply deficiency. This application, although on a smaller scale fails to overcome issues relating to the current lack of village facilities.

5.8 Conclusion

The application is for development beyond the built up limits of Adderbury in the open countryside. As such the application is contrary to both the adopted and Non Statutory local plan policies. However, given the current position on housing land supply which is below five years it is necessary to consider if it would be appropriate to release this site for development. This scheme provide 35 new dwellings, 30% of which are affordable, and attempts to demonstrate deliverability thus could potentially contribute to this housing land supply. However this application does not adequately address the tests set out in PPS3 (set out in the Head of Planning and Affordable Housing Policy section above), it is considered to cause harm to the countryside and the historic character of the village and raises sustainability issues in relation to access to schools. It is therefore recommended that this application be refused.

**6. Recommendation**

**Refuse for the following reasons;**

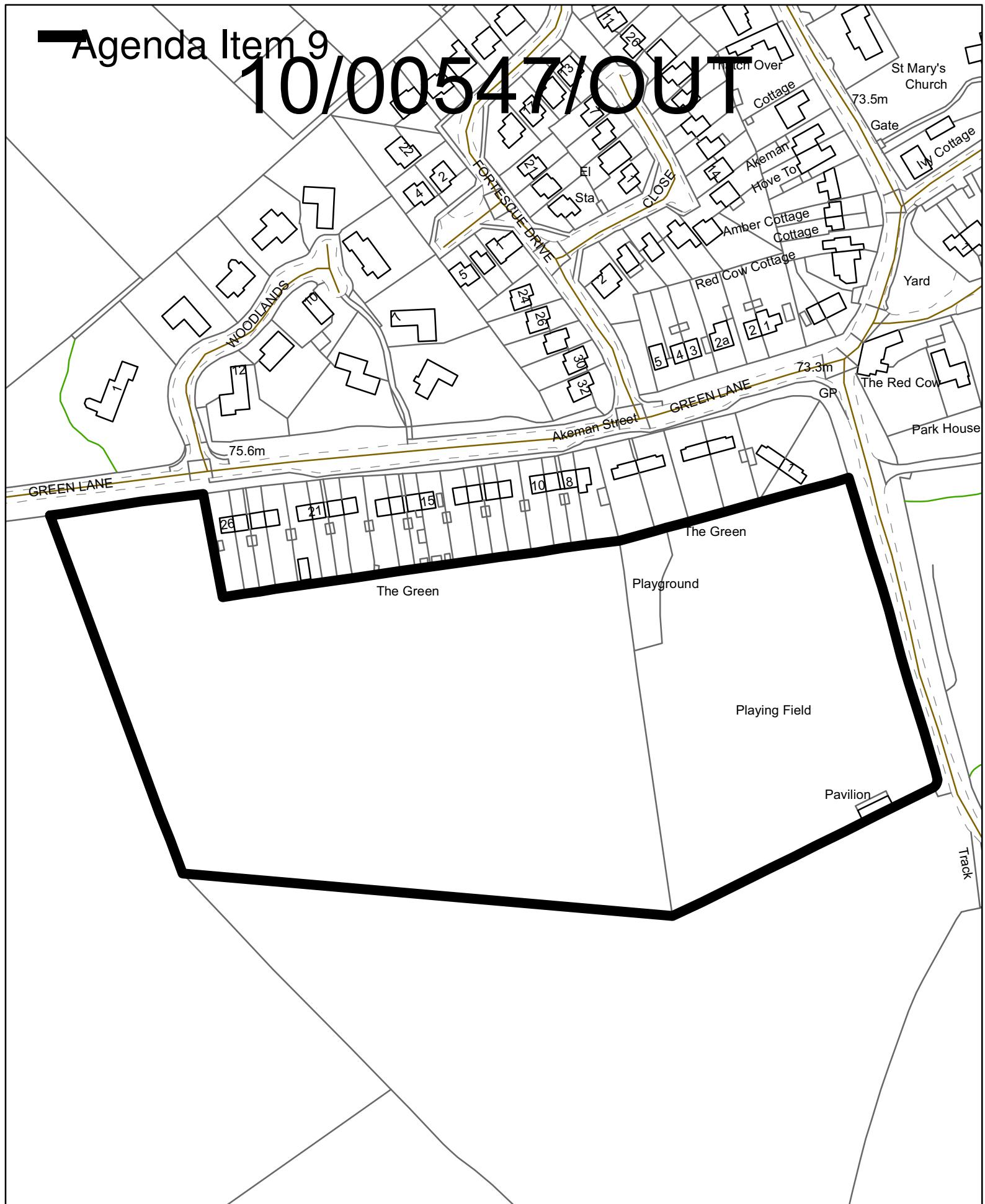
1. The proposal represents development beyond the built up limits of the settlement and will cause harm to the character and appearance of the countryside. Notwithstanding the Council's short term inability to demonstrate that it has the 5 year supply of housing land required by PPS 3 Housing, the development of this site cannot be justified on the basis of a temporary land supply deficiency alone, a development of this scale is inappropriate at this time given the existing lack of provision of village facilities. As such the proposed development is contrary to the saved policies H13, H18 and C7 of the adopted Cherwell Local Plan and Planning Policy Statement 3 Housing.
2. The proposed development of this site in the manner proposed will be detrimental to the setting of the adjacent Adderbury Conservation Area and the adjacent listed buildings and is therefore contrary to PPS5 (Planning for the Historic Environment) and Policy BE6 of the South East Plan, Policy C28 and C30 of the adopted Cherwell

Local Plan and Polices EN39 and EN40 of the Non-Statutory Cherwell Local Plan.

3. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority cannot guarantee that the infrastructure directly required to service or serve the proposed development, including affordable housing, open space/play space, off-site playing pitches,, education facilities, library facilities, and transport measures will be provided, which would be contrary to Policy CC7 of the South East Plan, Policies H5, TR1 and R12 of the adopted Cherwell Local Plan and Policies H7, TR4, R8, R9 and R10A of the Non-Statutory Cherwell Local Plan 2011.

**CONTACT OFFICER: Caroline Roche**

**TELEPHONE NO: 01295 221816**



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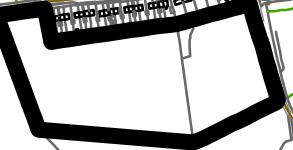
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**Cherwell**

DISTRICT COUNCIL  
NORTH OXFORDSHIRE

# 10/00547/OUT



Scale 1:10,000

**Cherwell**

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**DISTRICT COUNCIL  
NORTH OXFORDSHIRE**

<b>Application No:</b>	<b>Ward:</b> Ambrosden and Chesterton	<b>Date Valid:</b> 12/04/10
<b>Applicant:</b>	Hill Residential	
<b>Site Address:</b>	Land to the West and South of Numbers 7 to 26 The Green, Chesterton	

**Proposal:** Outline - Erection of 63 dwellings, new village hall/sports pavilion and associated car parking, enlarged playing pitches, new children's play area, access and landscaping.

### **Context**

The application has been submitted principally on the basis that the Council cannot demonstrate a 5 year rolling supply of deliverable (available, suitable and achievable) housing land. The current shortage in terms of housing numbers equates to 215 dwellings. At the time of writing there are a total of six housing supply related applications with the Council with the potential to generate some 391 homes. The applications are in Adderbury, Arncott x2, Bicester, Bodicote, and Chesterton (the subject of this application). On 20 May 2010 Members refused an application for a development of 65 houses on land South of Milton Road Adderbury. Schemes at Milton Road Bloxham and Orchard Way Banbury totalling 81 units (net) received resolutions to approve subject to legal agreements.

On 27 May 2010 Communities and Local Government secretary Eric Pickles wrote to every local planning authority and the Planning Inspectorate highlighting the coalition Government's plans to abolish regional spatial strategies and stressing that decisions on housing supply "*will rest with LPAs without the framework of regional numbers and plans*". The Secretary of State said councils and the Inspectorate should "have regard to this letter as a material consideration in any decisions they are currently taking". This issue is considered throughout the report and is been afforded the appropriate weight in reaching the recommendation. There has been no further information on the timing of the revocation of the RSSs.

### **1. Site Description and Proposal**

- 1.1 This application is for outline consent for 63 dwellings and associated development as set out in the proposal above. The dwellings are proposed to be located to the western section of the site whilst the sports pitches, village hall/pavilion and majority of the play space is proposed to the eastern section of the site. The site for housing is currently agricultural land whilst the area for recreation is currently used as such. 30% of the dwellings are proposed to be affordable units.
- 1.2 The northern boundary of the site is bounded by the rear enclosures of residential properties, the eastern boundary runs parallel with the road whilst the other boundaries are onto open agricultural land. The site is relatively flat in its topography.
- 1.3 With the exception of the access and layout all other matters are reserved for consideration through the submission of a reserved matters application should this one be approved.
- 1.4 Whilst this application is in outline only a plan has been submitted showing the proposed layout, as this is to be considered. Also submitted for consideration is a Design and Access Statement (and a revised version), Supporting Statement, Consultation Statement, Transport Statement, Flood Risk Assessment (and a revised version), Archaeological Evaluation, Extended Phase 1 Habitat survey and

a Code for Sustainable Homes Ecological Assessment.

1.5 Planning History

There is no planning history that relates to the whole of this site but there have been four applications relating to sections of the site. These are set out below;  
**10/00377/F – Replacement pavilion - Permitted**

**CHS.79/00008 – Outline – Erection of detached house – Refused/Appeal dismissed**

**CHS.76/00094 – Cricket Pavilion - Approved**

**CHS.75/00428 – Retention of wooden building and continued use as pavilion - Approved**

**2. Application Publicity**

2.1 The application was advertised by way of a site notice, press notice and neighbour notification letters. The final date for comment was 13 April 2010. However any letters received after this date but prior to the date of Committee will be reported to Members at the Committee meeting.

2.2 18 letters have been received from neighbouring residents in relation to this application. The majority of which objected to the proposal. The main reasons for objecting are set out below;

- The site is outside the scope of the current Local Plan and the LDF has not been approved therefore this application is premature
- The village's category 2 status means only infill is allowed
- Increase in traffic movements, already too high as a result of traffic avoiding Bicester Village
- No need to improve the sporting facilities as most of the participants live outside of the village
- More houses will lead to increase in crime
- The village will lose its identity and will begin to merge with Bicester
- The access will cause an inconvenience for existing residents of Green Lane, it would be better placed at the bend in the road to the south east and a roundabout introduced at the junction
- There are already enough houses being built at South West Bicester and North West Bicester
- People visiting the sports ground and pavilion will not drive through the estate to access them, they will park next to the field and on the grass verges
- There are insufficient spaces provided for the proposed uses
- Noise and disturbance from the village hall
- Loss of view, night-time darkness lost from existing properties
- Too much landscaping will block light from the rear of properties and result in leaf fall in the garden
- Village already has village hall and school hall for functions and they are adequate. A new hall would deprive the school of income and be an additional burden on the village
- Chesterton Football Club could use pitches run by Bicester Sports

### Association

- The location of the new facilities is not good as the existing facilities are central to the village
- The layout seems to suggest there will be further developments
- The school is currently oversubscribed
- Power supplies will be overloaded further as a result of the development
- The sports hall is akin to a bribe
- Approval of this scheme will set a precedent
- The Parish Council vote was split 50/50 and there has not been another vote since submission of this application

One letter did not object to the proposal for housing or improved facilities but did object to the access. A further letter objects to the proposal as it stands but recognises the benefit of the recreational facilities and suggests that the location of the two elements of development are swapped to reduce its impact on residential properties.

The Chairman of Chesterton Junior Football Club has written in to express concern that the supply of parking will be at the cost of playing field space. Moving the pitches to accommodate the parking has resulted in destroying the current cricket square, this is a real issue for the village clubs and loss of sporting facilities cannot be acceptable.

## 3. Consultations

3.1 **Chesterton Parish Council** raises no objections but makes the following comments;

- Chesterton has suffered from several problems namely the parking of vehicles on the road next to the playing field, no village shop, insufficient affordable housing and a village hall that is too small.
- The current application gives us the opportunity to solve these issues with a new village hall, adequate parking, 21 affordable homes and the opportunity to turn the existing village hall into a shop.
- The new village hall would also open up recreational and social facilities that would appeal to all age groups including youth activities which are sadly lacking at the present time.
- Pavilion facilities for outdoor sports would be provided by the existing building which is about to be re-built following an arson attack.
- The new facilities will make the area a real village activity centre
- The new housing will generate children for the village school which in turn will help secure its future
- Priority for affordable housing should be offered to existing Chesterton residents needing such accommodation
- Any increase in traffic should be offset by future traffic calming/re-routing measures and possible public transport improvements
- The existing road narrowing/part hump on Green Lane will need to be moved nearer the cross roads with the hump extended across the width of the road.

The above comments were reiterated in a further letter received on 15 June 2010. In addition to the above comments they have also made the following points;

- Unanimous support of the Parish Council for this development

- Would not support any application unless it resulted in very positive planning gain for the village
- This has been achieved with widespread assent across the local residents, however small vociferous group are campaigning for refusal despite not having attended meetings prior to and during the consultation period
- New play area next to community centre will benefit local toddlers group and those hiring out the hall
- Affordable housing will be of benefit. The parish Plan identifies a need amongst young local couples and parents with older children
- However do see that there are drawbacks to the scheme eg. Additional traffic along Green Lane in the short term, impact on views from the existing properties, loss of green field agricultural land

3.2 The **Council's Head of Planning Policy and Economic Development** has made the following comments;

The site comprises approximately 3.1 hectares of agricultural land and a playing field of about 1.6 hectares. The site is not allocated for development in either the South East Plan 2009 or the saved (adopted) Cherwell Local Plan 2011; nor is it allocated in the Non-Statutory Cherwell Local Plan 2011. I consider the main planning policy considerations below.

#### **South East Plan 2009**

Policy SP3 of the South East Plan states that the prime focus for development should be urban areas in order to foster accessibility to employment, housing, retail and other services and avoid unnecessary travel. LPAs are required to formulate policies which, amongst other things, concentrate development within or adjacent to urban areas and seek to achieve at least 60% of all new development on previously developed land.

Chesterton is not considered to be an urban area and as the application site comprises greenfield land it would not contribute to achieving this 'brownfield' target.

Policy BE5 states that in preparing Local Development Documents (LDDs), LPAs should plan positively to meet the defined local needs of their rural communities for small scale affordable housing, business and services. LDDs should define the approach to development in villages based on their functions performed, their accessibility, the need to protect or extend key local services and the capacity of the built form and the landscape setting of the village. All new development should be subject to rigorous design and sustainability criteria so that the distinctive character of the village is not damaged.

I consider Chesterton to be one of the district's more sustainable villages in terms of the presence of local services and facilities, including a primary school, playgroup, pubs, and recreation and community facilities which are proposed to be improved as a result of this application. It is a Category 1 village in the saved (adopted) local plan and although it is one of 51 Category 2 villages in the non-statutory Local Plan, it is proposed to be one of 20 Category B villages in the Council's Draft Core Strategy (proposed policy RA1) and one of 37 Category A and Category B villages (there are about 90 villages and hamlets in the district). It is therefore considered to be reasonable location in which to consider accommodating limited development in the interests of meeting the needs of rural

communities, particularly the need for affordable housing, in the context of policy BE2. The impact of the proposal on village character will of course need detailed consideration.

Policy H2 of the South East Plan states that Local Planning Authorities (LPAs) will work in partnership to allocate and manage a land supply to deliver both the district housing provision [13,400 dwellings from 2006 to 2026] and sub-regional/regional provision. In doing so, LPAs are required to take account of a number of considerations including:

- the scope to identify additional sources of supply elsewhere by encouraging opportunities on suitable previously developed sites;
- providing a sufficient quantity and mix of housing including affordable housing in rural areas to ensure the long-term sustainability of rural communities;
- the need to address any backlog of unmet housing needs within the housing market area in the first 10 years of the plan.

The policy requires LPAs to plan for an increase in housing completions to help meet anticipated need and demand. Housing land supply is considered later in these comments.

Policy H3 requires a substantial increase in the amount of affordable housing in the region to be delivered including by taking account of housing need and having regard to the overall regional target that 25% of all new housing should be social rented and 10% intermediate affordable housing. The application's proposal for 30% affordable housing meets the current requirement of the non-statutory local plan. The Council's Draft Core Strategy (para' A.142) states that local housing needs estimates (2009) suggest a need for some 390 affordable homes per year (288 on top of the current average supply of 102 per year). The 2009 Annual Monitoring Report notes however (para' 5.57) that the Council remains on track to meet the Housing Strategy target of at least 600 dwellings from 2005 to 2011.

#### **Saved (Adopted) Local Plan 1996**

Policy C8 of the saved Local Plan seeks to resist sporadic development in the open countryside whilst policy C7 seeks to prevent demonstrable harm to the topography and character of the landscape. Policy C30 requires the character of the built environment to be considered.

As the proposal entails the loss of greenfield land in open countryside there is a need to consider the district's housing land supply position (below) as well as whether there would be unacceptable harm to landscape and local character.

#### **Non-statutory Cherwell Local Plan 2011**

Policy H1a of the Non-Statutory Cherwell Local Plan 2011 sets out criteria for considering proposals for new housing development which include the availability and suitability of previously developed sites and empty or under-used buildings for housing and, in the case of category 1 and 2 villages such as Chesterton, whether it would meet an identified local housing need (not just affordable housing). These policies must now be considered in the context of Planning Policy Statement 3 (Housing) which provides current national policy on managing housing land supply (see below).

The Non-Statutory Plan contains similar restrictions on building beyond the built up limits of settlements and to achieve protection of the landscape and local character as the saved local plan (policies H19, EN30, EN34 and D3).

Policy R6 of the Non-Statutory Plan encourages the provision of new or extended sporting and recreation facilities (as is the case here). Policy R8 sets out standards for the provision of children's playspace and formal sports provision, and policy R9 seeks provision of amenity open space. I understand that comments on recreation / open space provision are to be provided separately from this response

### **Housing Land Supply**

Planning Policy Statement 3 (PPS3) requires a flexible supply of land for housing by, amongst other things, maintaining a five-year rolling supply of deliverable (available, suitable and achievable) housing land. LPAs are required to monitor the supply of deliverable sites on an annual basis, linked to the Annual Monitoring Report review process.

The Council's 2008 Annual Monitoring Report (AMR) noted that the district had a 5.3 year rolling supply for the period 2009-2014. The 2009 AMR shows that for the same period the district now has a 4 year supply rising to 4.5 years for 2010-2015 and 5.1 for 2011-2016. However, on 18 February 2010, the Planning Committee resolved to grant permission, subject to legal agreement, for 33 social housing units (20 net additional homes) at the Orchard Way Shopping Parade, Banbury; and, on 11 March 2010 the Committee resolved to grant permission, subject to legal agreement, for a development of 61 homes on land south of Milton Road, Bloxham. Those developments are considered to be deliverable by 2015 and increase the rolling supply of deliverable housing land for 2010-15 (i.e. for the current monitoring year - 10/11 ) from 4.5 years to 4.6.

PPS3 requires scenario and contingency planning to identify different delivery options, in the event that actual housing delivery does not occur at the rate expected. Policies and proposed management actions are expected to reflect the degree to which actual performance varies from expected performance, as indicated in housing and previously developed land trajectories. Where actual performance, compared with the trajectories, is within acceptable ranges (for example within 10-20 per cent), and future performance is still expected to achieve the rates set out in the trajectories, PPS3 states that there may be no need for specific management actions at that time and that LPAs will wish to continue to monitor and review performance closely and consider the need to update the five year supply, of deliverable sites where appropriate.

In accordance with PPS3, the district's rolling supply of deliverable housing land takes no account of unidentified, small site windfalls. Planning permission does exist for some additional 500 homes which if 90% implemented would be more than enough to boost rolling supply over 5 years in 2010/11. However, small, unidentified windfalls cannot be considered until they are recorded as complete. New LDF sites will also emerge over the next couple of years, boosting both near and long-term supply. Once such sites are considered to be available, suitable and achievable as defined by PPS3 they could be considered as part of the rolling supply of deliverable sites.

At the present time, however, it is considered that there remains a need to increase the supply of housing that will be delivered over the period 2010/11 to 2014/15 so that the rolling supply of deliverable land increases back towards 5 years (from 4.6 years) for the year 2010/11. Recorded housing completions are expected to be low in 09/10 with a provisional figure of 444 compared to a South East Plan requirement of 670 per annum. Completions are expected to be lower in 10/11 as projected by the AMR (181 excluding unidentified 'windfalls' on small sites of less than 10 dwellings).

PPS3 states that where LPAs cannot demonstrate an up-to-date five-year supply of deliverable sites, they should consider favourably planning applications for housing, having regard to the policies in PPS3 including the following considerations:

- achieving high quality housing
- ensuring developments achieve a good mix of housing reflecting the accommodation requirements of specific groups, in particular, families and older people;
- the suitability of a site for housing, including its environmental sustainability;
- using land effectively and efficiently;
- ensuring the proposed development is in line with planning for housing objectives;
- reflecting the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives.

In the context of the district's current housing supply position, this application should be carefully considered to see whether or not it meets PPS3 criteria as well as other policy considerations including the South East Plan, the saved policies of the adopted Cherwell Local Plan 1996 and the Non-Statutory Cherwell Local Plan 2011.

As a 'regulation 25' consultation document, the Council's Draft Core Strategy carries little weight. However, it sets out proposed directions of growth for the district having regard to available evidence. Proposed policy RA2 envisages about 220 homes to be distributed between 8 villages, including Chesterton, in the Central Oxfordshire area (Ambrosden and Launton are considered separately). This equates to about 28 homes per village. The Draft Core Strategy states that at this stage the number of homes will be divided broadly equally between the villages but that the precise number of homes to be allocated to individual villages will be determined separately in a Delivery Development Plan Document. Although the Green Lane proposal is within the 220 homes presently envisaged it is more than might be expected at Chesterton in advance of site specific analysis for the Delivery DPD. This needs to be weighed against the overall current housing need and the benefits of the proposal including improved recreational / community facilities. Careful consideration should also be given to detailed issues including the site's relationship with the village's built up area and accessibility to services and facilities.

If the proposed development were to be considered favourably, it must be clearly demonstrated that the site is deliverable (available, suitable and achievable) and capable of being recorded as complete by the end of the next 5 year rolling

period i.e. by 31 March 2015. Completions after this date would have no effect on increasing the rolling supply for 2010/11 from 4.6 years. Sufficient certainty is needed to enable the site to be added to the district's rolling supply of deliverable housing land upon any resolution to approve. If shown to be deliverable, it is expected that the site would increase the rolling supply of deliverable housing land for 10/11 from 4.6 to 4.7 years.

I understand that at the time of writing there are another four planning applications (for 10 or more dwellings) which together have the potential to generate about 326 dwellings. Please note that on this basis, if the application for Green Lane, Chesterton were not to be approved there would still be the potential to return to a 5 year rolling supply. (However at the time of drafting the report the situation has changed and only three of the four applications referred to above remain undetermined and have the potential to generate about 261 dwellings. A further 2 applications have been submitted for residential schemes in Arncott which have the potential to increase the provision to 328 dwellings).

In relation to references to the South East Plan regard should now also be had to the content of Eric Pickles letter dated 27 May 2010 which is set out in full at the end of 5.2 below.

3.3 **The Council's Urban Design Officer** has made the following comments;

In terms of conservation: This site lies immediately adjacent to Chesterton Conservation area and opposite Chesterton Lodge (now Bruern Abbey School) which is a grade II listed building. The conservation area appraisal mentions the importance of the open fields surrounding the conservation area and I consider those to the north west down to the Gagle Brook to be most sensitive as they are small scale and well vegetated; less so to the south here where the landscape is open, flat with a wide field pattern creating a fairly featureless landscape. It also identifies a view west from Chesterton Lodge as positive. The curtilage of Chesterton Lodge is heavily screened by mature trees and vegetation and only glimpse views are afforded from the curtilage in a westerly direction. Because the residential development is proposed to be sited behind the sports pitches, which are in their current location, I do not consider that the proposal will harm either the setting of the conservation area or the setting of the listed building and in this respect is acceptable.

In terms of urban design: The indicative layout submitted demonstrates that the number of dwellings for which permission is sought can be comfortably accommodated on the site. Some of the design principles established, such as the frontage to the sports pitches and the variety of views and spaces along the roads within the development are those which I would wish to see inform any RM application and in this respect the application is acceptable. However I do consider that the Design and Access Statement falls short of what is required by circular 01/06 in that it does not explain and justify the scale, appearance or landscape approach to the site. Para 89 requires the parameters of the upper and lower limits of height width and depth for each building to establish a 3D building envelope, even for outline applications. This was explained to the agent and it is disappointing to see that this has not been supplied

3.4 **The Council's Landscape Planning Officer** has made the following comments;

The development, due to the flat land of the site and surroundings can be screened

by established hedges to the boundaries, adjacent field hedges/trees and roadside hedgerows. The occupiers of The Green will experience the construction noise/ dust and visual impact of the finished development. I think it is, therefore essential to plant the landscape buffer to the northern site boundary (identified in the Design and Access Statement) at the earliest opportunity, preferably before construction commences so that the occupiers of The Green can benefit from this planting early as possible (this to be legalised in the 106 Agreement). It is important that residents of the Green are consulted on this proposal to ensure that shade and root and branch encroachment issues are addressed - some occupiers my wish to have open views of the playing field from their property.

The adjacent woodland is defined as a BAP priority habitat, and it would therefore be appropriate to increase the site's biodiversity through the implementation of wildlife corridors and native/ornamental planting for cover and food sources.

#### Existing Trees and Hedgerows

It is important to retain the existing field boundary hedges and trees. A minimum maintenance height is required above ground level to ensure that the established hedgerows screen the site from users of Green Lane to the east and the north. There are existing trees with the hedgerow that are worth retaining and protecting during the course of the works.

#### Ownership and Preservation

I am concerned about the longevity of the hedgerows on the boundaries of the proposed gardens. Where the occupiers may remove pieces of hedgerow and exposing views of the development and also planting inappropriate species, such as conifers in rural area. A condition must be attached to ensure the hedgerows are retained, but this does not always protect native hedgerows on garden boundaries where they are eventually removed by the occupiers. I suggest the deed of sale to include a clause whereby the purchaser are under obligation to maintain the hedgerow and trees on their boundary in perpetuity, replacing any dead plants with similar species. This would be reinforced by a drawing showing the hedgerow fenced off from the gardens with maintenance access gates for the occupiers. The buffer planting to the southern garden boundaries of The Green dwellings to be subject to the above legal agreement to ensure its preservation.

#### Play Area Provision.

On the initial layout drawing. With the play area on the new corner of the playing field will be removed to accommodate the playing field extension and the play provision shortfall for the rural south, identified in CDC's Cherwell Green Space Strategy 2008 -2016, it is essential that this development goes some way to address this shortfall. CDC's SPG, Recreation and Amenity Open Space Provision, July 2004 specifies a LEAP for the 50 dwelling threshold. A LAP is required for the younger children and this can be accommodated within the site if it is moved from its present proposed position approximately 40 m to the east to ensure it lies within the 100 m walking range as defined in the SPG. As the LEAP is to be near the pavilion (as shown in the Design and Access Statement) I would prefer it to be open to surveillance from the adjacent proposed dwellings for the reasons of security, and the views would also incorporate the playing field and the pavilion.

#### Sports Pitch Proposals

The orientation of the pitches must be reconsidered. The east/west axis proposed

has health and safety implications for player when the high balls are kicked against the sun. Sport England recommends an orientation between 55 and 325 degrees. If the sports pitches are re-oriented 90 degrees so that their axis is north/south this would be acceptable, however the cricket wicket will need to be re-orientated and the pavilion relocated.

- 3.5 The **Council's Head of Building Control and Engineering Services** has stated that although he has no objections to the principle of development he considers that the Flood Risk Assessment is insufficiently complete to support a detailed application. The assessment should consider the effect of an electricity failure at the surface water pumping station during a storm event, and of the capacity of the pumping station being exceeded by an event more severe than the design event. It needs to be shown that there is a safe overland flood path.
- 3.6 The **Council's Environmental protection Officer** has stated that as this is a sensitive development it is recommended that the full phased contamination conditions are imposed.
- 3.7 **Oxfordshire Country Council's Strategic Planning** views are set out below;  
**Comments:**  
**Main Strategic Policy issues:**  
**Housing supply:** Cherwell District Council currently does not have a 5 year supply of land for housing. PPS3 (para 71) states that where local planning authorities cannot demonstrate an up to-date 5 year supply of available, suitable and achievable sites, they should consider favourably planning applications for housing, subject to a number of considerations including whether the proposed development is in line with planning for housing objectives, reflects the need and demand for housing in, and the spatial vision for the area and does not undermine wider policy objectives. The emerging draft spatial strategy seeks to focus growth outside of Bicester, Banbury and Kidlington on meeting local needs and directs it to the larger, more sustainable villages with a wide range of services; development in the open countryside would be strictly controlled. This development is for more than double the scale of development proposed for each Central Oxfordshire category B village (approximately 28 dwellings over the whole plan period – to be achieved through infilling and conversions) and would be located in open countryside. The proposed development is of a scale and location which would not be consistent with the planned distribution of housing and approach to growth envisaged in the emerging Core Strategy.  
**SE Plan Regional Spatial Strategy:** Chesterton is a medium sized rural community with a population of approximately 850 people and about 280 households; development of an additional 63 dwellings in Chesterton would represent an approximate 23% increase in households and a similar percentage rise in population. Policy BE5 of the SE Plan on village management supports limited small-scale development that can help meet the specific local housing needs of rural settlements and sustain local services and facilities; however, the scale of this development is not 'small-scale' and would be inconsistent with the policy. Furthermore it is a strategic objective of Oxfordshire 2030 and a County Council priority to create healthy and thriving communities; a development of this size would be difficult to integrate and would be contrary to this intention. Apart from the local primary school, the village has very few facilities with residents having to travel over 2km to Bicester or beyond to access jobs, services and facilities. Although the village does have access to a reasonable level of public transport service (apart

from on Sundays) in reality I would expect people to choose to travel by private car. Development which leads to an increased need to travel by motorised means would be inconsistent with the thrust of PPG13, SE Plan policy CC2 which seeks to reduce the need to travel as a means to mitigate climate change, SE Plan policy T1 which seeks to locate development so as to reduce journey lengths and policy B5 which requires all development to be subject to rigorous sustainability criteria.

**Infrastructure and Service Provision: SE Plan policy CC7:** The application is being considered by the County's developer funding team who are responding separately in the normal way. The scale of the proposed development would generate additional demands for County services and facilities, especially schools. The local primary school does not have spare capacity; if sufficient spaces could not be created, the children from the new development (or children from other villages within the catchment who would otherwise attend the school) would need to be accommodated in, and transported to, other nearby schools where places could be provided. If the district council is minded to permit the proposal, permission should be subject to a Section 106 agreement to secure any necessary contributions and improvements to service infrastructure in line with SE Plan policies CC7, and CO1.

**Affordable housing and mix:** The Supporting Statement says that the proposal would provide 30% affordable housing. This would be contrary to policy CO3 of the SE Plan which states that at least 40% of all new housing in the Central Oxfordshire sub region should be affordable. The development would deliver a mix of 2, 3, 4 and 5 bedroom dwellings which would be broadly consistent with policy H4 of the SE Plan which seeks to provide housing to support the needs of the whole community.

**Development in the open countryside:** The development would extend the built up area of the village further into open countryside. The district is best placed to assess the impact of the development on the landscape setting of the village.

**Resource use, climate change and environmental issues:** Environment and climate change are County Council priorities and Oxfordshire 2030 objectives. The SE Plan seeks to achieve sustainable development through policy CC1 and to adapt to and mitigate climate change outlined in policy CC2.

- a. The Supporting Statement accompanying the application says that the development would incorporate sustainable drainage measures (SUDs) to reduce any impact on the receiving local sewerage network. This approach would be consistent with policy NRM4 of the SE Plan; and
- b. The Design and Access statement explains that the proposed development would be designed to achieve Level 3 of The Code for Sustainable Homes. This would be in line with policy CC4 of the SE Plan and the Oxfordshire Sustainable Construction Advice Note (2009), which has been approved by Cherwell for development control purposes.

**Transport and Highways:** The Council as Highways Authority is currently assessing the proposals and their comments will be sent separately to the District in the normal way. If the district is minded to permit the proposal, permission should be subject to a legal agreement to secure contributions to any necessary improvements to transport.

**Local Member Views:** No comments received.

**RECOMMENDATIONS:** It is RECOMMENDED that the County Council from a strategic policy perspective informs Cherwell District Council that:

- a) It objects to the development proposed in application no 10/00547/OUT on the grounds that:

(i) it would be large scale development which would generate significant additional population in a village which lacks a reasonable range of jobs, services and facilities and would be likely to give rise to increased travel by motorised means, particularly

by private car. As such it is contrary to the sustainability objectives of SE Plan policy BE5 for village management, SE Plan policy CC2 which seeks to reduce the need to travel as a means to mitigate climate change, SE Plan policy T1 which seeks to locate development so as to reduce journey lengths and to the thrust of PPG13. It would also run counter to the strategic objectives of Oxfordshire 2030 and this Council's priorities for creating healthy, thriving communities;

(ii) it does not meet the SE Plan requirement in policy CO3 that 40% of all new housing in Central Oxfordshire should be affordable;

b) It supports in principle development in villages of an appropriate scale to meet identified local needs including for affordable housing and to sustain the socioeconomic well-being of the local community; and

c) However, should the district be minded to permit the development,

(i) it should be satisfied that the scale of development would meet an identified local need and there are other material considerations which outweigh the SE Plan policy affordable housing requirement;

(ii) permission should be subject to a legal agreement to secure contributions to any necessary supporting transport infrastructure and non- transport service infrastructure, including additional primary school accommodation at an appropriate school.

3.8 **The County Council's Highway Department** has made the following comments; The submitted TS states that there is unlikely to be an impact on the local highway network from the proposed development due to capacity within the highway network and the expected low vehicular trips to be made a peak times. I suspect such a statement has/will raise concern from the residents of Chesterton due to the congestion problems that can occur along the A41 which encourages rat running from vehicles heading towards Bicester through the village; this is an issue Oxfordshire County Council has acknowledged and is liaising with the Parish Council about. Although this problem is acknowledged, an assessment has to be made on the proposal submitted on its merits and reading through (and checking) the information provided within the TS, it is my opinion the information is deemed reasonable.

A review of the accident data for the area has been carried out, and has highlighted a few incidents that have occurred within the last 5 years. Looking through the information provided it appears the incidents that occurred were down to driver error rather than the characteristics of the local highway network. In light of this data it is considered that the proposed development is unlikely to increase the number of recorded accidents in this area.

The proposed 63 units to be located in the village of Chesterton will be served by a limited range of facilities (only a primary school, nursery, public house), which can only mean that new residents will have to travel over 2km to Bicester or beyond to access a wider selection of facilities as well as job opportunities etc. It is acknowledged there is a reasonable public transport service to Chesterton which runs around every two hours (no Sunday service)(*The applicant has advised that a service runs every half hour*). However it is my opinion that the majority of trips in/out of the village will be made by the private car which is contrary to the guidance within PPG13 and Policies CC2, T1 and B5 of the SE Plan. If this development is to be considered sustainable in terms of transport by promoting alternative travel modes to the village then that of the private car - it is deemed reasonable (and essential) that the proposed development provides a significant contribution towards

enhancing the existing public transport services.

The proposed access arrangements for the site meet the required design standards for a road in this location i.e. appropriate vision splay(s) can be achieved with the removal of vegetation within highway land and the red-line area. The distance between the proposed entrance into the proposed site and the junction of the Woodlands is acceptable; subject to the 30mph speed limit being extended, the existing gateway & traffic calming feature being relocated and additional calming features being introduced (which can be agreed at a later date).

A shallow ditch runs along the frontage of the site (and to the western boundary), which should be considered when SUDS is designed/incorporated into the development.

The emergency access arrangements for the proposed village hall is acceptable, but only for emergency use as the vision available at the access point onto the road in this location is well below the required standards. This access will need to be improved to OCC specifications prior to first occupation of the village hall. This emergency access will need to be gated; any gate must be set back 10m from the back-edge of the carriageway to deter any vehicles with trailers (maintenance vehicles) from overhanging onto the road.

The existing vehicle access into the playing field must be permanently closed to vehicular traffic by the means of reinstating the footway and full face kerbing. Such works must be completed prior to the first occupation of the development. Pedestrian access to site to remain, but will require either a gate or collapsible bollard to deter misuse and maintenance access.

As part of the proposed off-site works a new footway is proposed to link up the site to the existing network along Green lane, which is acceptable (and essential). All the off-site works will require a Section 278 legal agreement with the Local Highway Authority, which will need to be part of a S106 Agreement.

The proposed parking levels of 1 bedroom = 1 space, 2/3 bedrooms = 2 spaces and 4+ bedrooms = 2+ spaces (on merit) is acceptable. 30 spaces for the village hall with overspill parking appears acceptable; although 5% should be allocated for disabled users.

In my opinion, overall the submitted TS appears reasonable.

#### **Layout comments**

Proposed vision splays at new entrance into site are acceptable (subject vegetation clearance).

Calming features into the site are not visible and will be required which is a detail that can be looked into if/when reserved matters application is submitted (if this application is successful).

Parking levels – the proposed levels of 1 bedroom = 1 space, 2/3 bedrooms = 2 spaces and 4+ bedrooms = 2+ spaces (on merit) is acceptable. Please note the Local Highway Authority will only consider a garage/car port as an off-street parking space when the internal dimensions are 6m x 3m. Cycle parking being provided is

acceptable for the village hall; although such facilities should be sheltered.

There appears to be no visitor parking being provided within the site – these could be incorporated into the layout of the site and act as calming features if constructed appropriately. Also would deter obstructions from on-street parking.

A tracking plan will be required to demonstrate refuse vehicles can turn within the site.

Collapsible bollards or lockable gates will be required for the proposed pedestrian link (by football pitches) as well as the emergency access to deter misuse and allow maintenance vehicles access.

There are no internal vision splays shown for vehicular entrances, including entrance into proposed sports pavilion i.e. there a few plots that have boundary wall obstructing visibility. This will require attention for any future proposals.

There should be footway links on both sides of the entrance into the site.

It is expected that the proposed site will be offered for adoption to the Local Highway Authority via a S38 Agreement; if this to be the case the development will need to be constructed to an acceptable OCC standard. However, for dwellings within plots of less than 5 units the streets/roads that serve them will remain private.

Slight concern that vehicles associated with the proposed village hall/sport pavilion and children's play area may park within the development instead using the parking area being provided. Suggest measures are considered to deter this, such as high full face kerbing and planting/fencing.

### **Financial Contributions & Legal Agreements**

The proposed development is likely to add additional pressures to the existing public transport services (stated within submitted TS); therefore a contribution towards these services is required. There is one service which Oxfordshire County Council subsidises for Chesterton – the 25/25A service, £167k per annum (3 year contact = £501,000).

Oxfordshire County Council continues to seek an enhancement to the existing 25/25A service from one bus an hour to two (increase in service frequency) as well as provide Sunday services. Such an enhancement has been priced at an extra £120,000 a year to the current contract; hence the request for funding towards this service from the proposed development.

#### Calculation

2001 population census data for Chesterton = 835 (as quoted in the Oxfordshire Data Observatory).

£501,000 divided by 835 = £600 per resident  
assuming two residents per residential per dwelling i.e.  $63 \times 2 = 126$

$126 \times £600 = £75,600$

Public Transport Subsidy Contribution = £75,600.

The ongoing objective/strategy of the Rights of Way Group is to improve the

surrounding footpath, bridleway etc links in the area through surface upgrades/repairs, new fencing, planting, new gates etc. A contribution of £4,000 (index linked to current Baxter indexation prices) is required towards improving these links.

A Transport contribution of £15,000 (index linked to current Baxter indexation prices) towards transport infrastructure/services within Chesterton is required.

The Public Transport Subsidy, Rights of Way & Transport contributions are to be secured via a S106 Agreement. All the off-site works will require a Section 278 legal agreement with the Local Highway Authority, which will need to be part of a S106 Agreement. If the development is to be offered for adoption to the Local Highway Authority the developer must enter into a S38 Agreement.

### **Summary**

The proposed 63 dwellings will be located off Green Lane (classified unnumbered road) and will be provided with an acceptable access arrangement (including emergency access arrangements). The submitted TS has demonstrated there is unlikely to be an impact on the local highway network from the proposed development.

A review of the accident data for the area has been carried out, which found a few incidents had occurred; looking at the information provided the incidents involved were down to driver error rather than the characteristics of Green Lane.

A review of public transport, pedestrian and cycle accessibility was undertaken as well as consideration to the proposed sites parking levels and current local and government policy guidance.

There are a number of design details for the site that will require further consideration if a reserved matters application is to be submitted to the Local Planning Authority in the near future

All the off-site works will require a Section 278 legal agreement with the Local Highway Authority, which will need to be part of a S106 Agreement.

### **Conclusion**

Taking the above into account it is my opinion that recommending refusal on highway safety grounds would not be appropriate or sustainable at appeal; therefore I recommend conditions are imposed (as well as securing the required financial contributions and off-site works by legal agreement).

3.9 **Oxfordshire County Council's Archaeologist** makes the following comments (in summary);

- Site already been subject of Archaeological field evaluation
- Number of features recorded within the site but concluded that the majority were unlikely to be archaeological in nature
- One feature positively identified – undated stone lined field drain
- Considered that area has low potential for archaeological deposits to be present
- Records indicate presence of known archaeological finds nearby
- If finds do occur should notify County Archaeologist

- Informative required

3.10 **The Environment Agency** originally objected to the application but following the submission of further details they have now withdrawn their objections subject to the inclusion of conditions in the event of any approval.

3.11 **Thames Water** makes the following comments (in summary);

- Inability of the existing waste water infrastructure to accommodate the needs of the application. However this can be resolved by the inclusion of a planning condition.
- No comments in relation to water infrastructure, except the inclusion of an informative.

3.12 **Natural England** has no objections but made the following comments (in summary)

- The surveys submitted found that the site contains habitats suitable for great crested newts, reptiles and nesting birds and as such it is possible these species may be present within the site.
- The survey information and mitigation measures that have been proposed are acceptable. Therefore no objections are raised subject to appropriate mitigation conditions are imposed
- Recommend that existing wildlife habitats and corridors are retained, including species-rich hedgerows and trees within the site as described in section 6.2 of the phase 1 survey.

3.13 The **Crime Prevention Design Advisor** has no objections to the preliminary layout but makes the following comments;

- Designing out crime principles are achieved with the surveillance of the parking square, the LAP and the recreation ground.
- Homes adjacent to the access road entrance should have windows overlooking the street
- If the hall is to have a drinks licence it should attain Secured by Design standards for Licensed Premises
- Would welcome greater emphasis on how the development will directly address crime prevention and community safety.

3.14 The **Council's Rural Development and Countryside Manager** has made the following comments;  
No existing public rights of way are affected by the proposal.

I'm pleased to note that there will be a footpath link into the village from the northeast corner of the playing field.

Pedestrian access should also be allowed via the emergency access road at the south east corner. This would be an obvious desire line link to the wider public rights of way network via Chesterton FP14. A gap or pedestrian gate should be installed to accommodate it. From the plans and D&A it seems that this has not been considered in the application.

#### **4. Relevant Planning Policies**

##### **4.1 South East Plan 2009**

- SP3 – Prime focus for development on urban areas
- CC1 – Sustainable development
- CC2 – Climate Change
- CC4 – Sustainable design and construction
- CC7 – Infrastructure and implementation
- BE5 – Plan positively to meet the defined local needs of rural communities for small scale affordable housing, business and services
- H2 - LPAs will work in partnership to allocate and manage a land supply to deliver both the district housing provision and the sub-regional/regional provision
- H3 – Requires substantial increase in the amount of affordable housing
- H4 – Type and size of new housing
- T1 – Manage and invest
- S3 – Education and skills
- CO1 – Core Strategy
- CO3 – Scale and Distribution of Housing

27 May 2010 – Letter from Eric Pickles

**4.2 Adopted Cherwell Local Plan**

- H5 – Affordable housing
- H12 – Housing in rural areas
- H13 – Category 1 Villages
- H18 – New dwellings in the countryside
- C7 – Topography and character of landscape
- C8 – Resist sporadic development in open countryside
- C28 – Standards of layout, design and external appearance
- C30 – Character of built environment

**4.3 Non-Statutory Cherwell Local Plan**

- H1a – Availability and suitability of previously developed sites
- H4 – Types/variety of housing
- H8 – Rural exception sites
- H16 – Category 2 Villages
- H19 – New dwellings in the countryside
- EN30 – Sporadic development in the countryside
- EN34 – Conserve and enhance the character and appearance of the landscape
- D3 – Local distinctiveness
- R6 – New or extended sporting and recreation facilities
- R8 - Provision of children's play space
- R9 – Provision of amenity open space

**4.4 PPS 3 – Housing  
PPG13 – Transport**

**5. Appraisal**

5.1 The main issues to consider in the determination of this application are as follows –

- Planning Policies

- Housing delivery and need
- Landscape and historic impact
- Design and neighbouring amenities
- Highway impact
- Other material considerations

Each of the above points will be considered in turn.

5.2 Planning Policies

5.2.1 The adopted Cherwell Local Plan contains no specific allocation for the application site. It is therefore defined as countryside (i.e. previously undeveloped land) where there is a presumption against general residential development on unallocated sites without any special justification.

5.2.2 Policy H13 of the adopted Local Plan states that new residential development within Category 1 settlements, such as Chesterton, is restricted to infilling, minor development within the built up area of the settlement and the conversion of existing buildings; subject to other policies in the Local Plan.

5.2.3 Policy H18 of the adopted Local Plan states that new dwellings beyond the built up limits of settlements will only be permitted where they are essential for agricultural or other existing undertakings.

5.2.4 The development of this site is clearly an extension into the open countryside as the built up limits of the village can be defined as the rear boundaries of the properties on Green Lane. The development is therefore contrary to Policies H13 and H18 of the adopted Cherwell Local Plan.

5.2.5 The application site has no specific allocation in the Non-Statutory Local Plan and is therefore defined as open countryside.

5.2.6 In the drafting of the Non-Statutory Cherwell Local Plan Chesterton was re-categorised as a Category 2 Village. Policy H16 restricts development to conversions and infilling within the built up limits of the village. Policy H19 states that permission will only be granted for the construction of new dwellings beyond the built-up limits of settlements when it is essential for agriculture or other existing undertakings, or to provide a small, low-cost, affordable housing exception site to meet a specific and identified local housing need that cannot be satisfied elsewhere.

5.2.7 The proposal is contrary to Policies H16 and H19 of the Non-Statutory Local Plan for similar reasons to those outlined above in relation to the adopted Cherwell Local Plan.

5.2.8 On 27 May 2010 all Chief Planning Officer's were sent a letter from Eric Pickles, The Secretary of State, which sets out the intention to abolish Regional Strategies. The letter read as follows;

*I am writing to you today to highlight our commitment in the coalition agreements where we very clearly set out our intention to rapidly abolish Regional Strategies and return decision making powers on housing and planning to local councils. Consequently, decision on housing supply (including the provision of travellers sites) will rest with Local Planning*

*Authorities without the framework of regional numbers and plans.*

*I will make a formal announcement on this matter soon. However, I expect Local Planning Authorities and the Planning Inspectorate to have regard to this letter as a material consideration in any decisions they are currently taking.*

5.2.9 Officers are of the view that although this is a material consideration the Regional Strategies are still current adopted policy. In this case the South East Plan is still the relevant adopted policy and until further guidance is received on what will replace Regional Strategies decisions should still be made in accordance with it.

5.3 **Housing Delivery and Need (SE Plan and PPS3)**

5.3.1 The Council's current position on housing delivery is set out in the comments of the Head of Planning Policy and Economic Development set out in detail at 3.2 above. It is not yet clear how and when the intention to abolish Regional Strategies will materialise and what the full implications of it are. However based on adopted policy the Council currently has less than a five year housing land supply, as required by PPS3, identified at the current time. However for the current proposal to impact on this it would need to be demonstrated that it would be delivered by March 2015. Despite the application being in outline only the proposal seeks to demonstrate that this can be achieved due to the following factors;

- A letter confirming the applicant has the benefit of a formal Option Agreement to purchase the land subject to planning permission being granted. They must exercise their right to purchase within a strict period of time after planning permission is granted.
- Hill Residential are prepared to accept a condition requiring the submission of reserved matters one year after the grant of outline planning permission and a condition to implement the development one year from a subsequent approval of reserved matters
- The applicant has a clear understanding of the requirements of PPS3 and these have been addressed in the submission.

5.3.2 Given this commitment from the developers and to encourage the scheme to be delivered within the next five years it seems reasonable to shorten the timescales of both the outline and reserved matters applications to be no more than two years in total. Whilst an outline application is less favourable in deliverability terms than a detailed application, as the final design of the scheme is not being considered, the ability to adjust the time limits on any approval means that the overall time limit could be the same as that recently imposed on the application for residential development at Milton Road in Bloxham (09/01811/F). Furthermore this scheme has not reserved the layout for future consideration therefore the only matters to consider at reserved matters stage are appearance and landscaping.

5.3.3 In addition to seeking to demonstrate deliverability PPS 3 requires sites coming forward to meet the following requirements ;

- provide high quality housing;
- provide a good mix of housing reflecting the accommodation requirements of specific groups, in particular, families and older people;
- be suitable site for housing, including its environmental sustainability;

- represent an effective and efficient use of land;
- be in line with planning for housing objectives;
- reflect the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives

5.3.4 Chesterton is a Category 1 village in the adopted Cherwell Local Plan. Although it is allocated as a Category 2 Village in the Non-Statutory Cherwell Local Plan and a Category B village in the Draft Core Strategy it is still considered to be one of the District's more sustainable villages in terms of the presence of local facilities including a primary school, playgroup, pubs and recreation and community facilities, and also its proximity to Bicester. Therefore it is considered capable of accommodating further housing development in the interests of meeting the needs of rural communities, particularly the need for affordable housing. This scheme provides a mix of market and affordable dwellings (30%). Therefore in a development of 63 houses this results in 19 affordable units. Although there is no parish housing needs survey there are 16 people on the Housing Register with connections to Chesterton. Furthermore there is a wider need for affordable housing, therefore this provision has the potential to contribute towards this need. It is therefore considered that the development provides an appropriate level of affordable dwellings as well as it contributing to the shortfall in housing land supply.

#### 5.4 Landscape and Historic Impact

5.4.1 The site is not within any locally or nationally designated landscapes and it is difficult to obtain any long distance views of the site. The site for dwellings is also not viewed in association with any building of historic interest as the pitches intervene, creating some separation between the historic part of the village and the proposed development.

5.4.2 The comments of the Council's Urban Design Officer and the Landscape Officer at 3.3 and 3.4 above explore this in more detail but ultimately don't raise concerns about the visual harm, landscape impact or harm to the character and appearance of the nearby Conservation Area or the setting of listed buildings.

5.4.3 Despite this extension to the village and encroachment onto open countryside it is considered that the visual impact would not be so great as to warrant refusal on these grounds.

5.4.4 The Council's Landscape Officer has made some comments in relation to the landscaping and layout of the pitches. They are all issues which should be straightforward to resolve at the reserved matters stage.

#### 5.5 Design and neighbouring amenities

5.5.1 The application has been submitted in outline only but the layout is being considered. The layout plan shows that the proposed number of units can be accommodated in a satisfactory manner providing satisfactory living environments, sufficient parking and a good standard to layout and design compatible with the neighbouring properties.

5.5.2 The layout itself shows a central road running from the Green Lane access point through to the sports pitches. There are a number of small cul-de-sacs that spur off the main road and in the northern section of the site there is a small scar created by properties being set back from the frontage. There are sting frontages

along the entire length the road whilst the buildings successfully ‘turn corners’ into the smaller roads. Whilst being approximately 35 to 45 metres away from the pitches the properties closest to them have their frontages facing them. This provides good natural surveillance for the recreational areas and also provides an attractive frontage which will be viewed across the pitches from the road to the east.

- 5.5.3 With the exception of a few units in the Square, each property has off road parking with the majority having a garage, and all the properties benefit from generous sized gardens. The smallest of which and of which there is only one example, measures 10 metres in length.
- 5.5.4 The proposed scheme results in a housing density of approximately 30 dwellings per hectare. This density is likely to be greater than that found elsewhere in Chesterton but it meets the minimum density which was recommended in PPS3 Housing prior to its revision in June of this year. This is therefore considered to be appropriate for a village location.
- 5.5.5 There appears to be sufficient space between the proposed hall/pavilion and the residential houses for it not to cause a nuisance yet it will be sufficiently overlooked.
- 5.5.6 Although detailed elevations have not been provided the scale parameters have been provided which demonstrate that properties will be of a traditional scale, in keeping with others in the village. Details of the materials will be determined at reserved matters and controlled by condition. The Council’s Urban Design Officer has considered the proposals and is generally happy with the indicative layout and design of the scheme.
- 5.5.7 As the layout of the scheme is part of the consideration at this outline stage it is possible to do an accurate assessment of the potential neighbour impact. The only properties that could be affected by the actual built form of the dwellings are those properties on Green Lane whose gardens back onto the site.
- 5.5.8 The existing properties not only benefit from gardens of over 25 metres in length they enjoy some of the amenity provided from an open aspect agricultural field. The proposed development is to the south of the existing properties but the minimum gap between the rear elevations of the existing and proposed properties is approximately 41 metres. This is almost more than double the Council’s informal space standard for achieving development that does not cause adverse overlooking or overbearing. Even though the detailed elevations have not been provided it is not considered that given the distances between the properties the positioning of windows in rear elevations will be of significance in terms of overlooking.
- 5.5.9 The outlook for these existing properties will change but the planning system is not able to protect private views. Substantial landscaping is shown on the layout plan which some residents have expressed some concern over. Landscaping is a matter to be considered at Reserved Matters stage and is something that can be considered in liaison with individual residents.
- 5.5.10 Some residents have expressed concerns about the impact that the development

will have on their amenities in terms of parking and road congestion. These are issues that are covered below at 5.9.

5.6 **Highway Impact**

5.6.1 The Local Highway Authority has provided detailed comments on highway safety and impact at 3.8 above. However in general terms there is satisfaction that there would be no sustainable reason to refuse this application on highway safety grounds. Despite the concerns of neighbours in relation to congestion, especially at weekends the highway network is considered capable of supporting this increase in properties. The access is also considered to be acceptable subject to the revision of the speed restriction close to the proposed access.

5.6.2 It is also considered that the residential and recreational uses have been provided with sufficient parking to meet the relevant standards. Unfortunately it will not be possible to completely prevent people from parking on verges if they choose not to utilise the provided parking but measures can be incorporated into the scheme and the running of the recreation facilities to ensure those visiting the facilities are encouraged to use the parking.

5.7 **Other Considerations**

5.7.1 **Planning Obligation**

The proposed development would generate a need for infrastructure and other contributions, that need to be secured through a planning obligation, to enable the development to proceed. Negotiations are underway which seek to secure sufficient contributions towards the infrastructure required as part of this development. There has been an in principle agreement from the applicant to pay all the requested contributions which include;

- Affordable housing
- LAPS and LEAP
- Public art
- Highways and public transport contributions
- County Council Education contributions
- County Council Library contributions
- County Council Day Centre for the Elderly contributions
- County Council waste recycling contributions
- County Council Museum Resource
- District Council refuse bin contributions
- District and County Council administration/monitoring fees

5.7.2 The list above does not include the standard requirements for offsite sports contributions. This is because the developer has offered, in addition to the above contributions, and over and above the usual requirements for such a scale of development, the provision of two sports pitches and sports pavilion/village hall as part of the scheme. As these elements form part of the application they can be secured by the S106 agreement and will be required to be laid out and constructed to the specification of the Council.

5.7.3 Whilst the Council has not requested a viability assessment relating to the proposal it is considered that the proposed provision of these village facilities is viable in relation to the number of houses being provided.

5.7.4 In 3.7 above the County Council's Strategic Planning response states that the local primary school does not have spare capacity and has limited room to expand. It is therefore suggested that children would have to be accommodated and possibly transported to other nearby schools and contributions would have to be paid for improvements to service infrastructure. However to clarify, the County Council's Developer Funding Officer has stated that the Primary School is oversubscribed but that development of primary schools at South West Bicester is expected to augment that existing at Chesterton. Therefore the contributions which are being sought will go towards the provision of further Primary provision. It is also worth noting that Chesterton Parish Council feel that the development will generate children for the village school which will help secure its future.

5.7.5 A request has been received from RPS on behalf of Thames Valley Police (TVP), requesting the contributions be sought for improvements to Police operational and infrastructure requirements. RPS has stated that the development is of such a scale that it will impact on the demands made upon the services provided by TVP. However there is no current local policy justification for such a request therefore it has not been sought from the developers.

5.8 Conclusion

The application is for development beyond the built up limits of Chesterton in the open countryside. As such the application is contrary to both the adopted and Non Statutory local plan policies. However, given the current position on housing land supply which is below five years it is necessary to consider if it would be appropriate to release this site for development. This scheme, by providing 63 new dwellings, 30% of which are affordable, and demonstrating deliverability is considered to contribute to this housing land supply. In addition to contributing towards this shortage the proposal can meet the other tests set out in PPS3 (set out in the Head of Planning and Affordable Housing Policy section above). Furthermore it provides facilities that are recognised as being required and supported by the Parish Council.

Based on the conclusions reached above it is therefore recommended that this application be approved subject to the conditions set out below.

**6. Recommendation**

**Approval subject to;**

- a) Completion of the Section 106 agreement
- b) The following conditions

**Suggested conditions if approved;**

1. SC 1.0A Approval of reserved matters details (RC1)
2. SC 1.1 Outline expiry of application for reserved matters (RC1) Delete 'three' and insert 'one'
3. SC 1.2 Outline duration limit (RC1) Delete 'two' and insert 'one'
4. SC 2.15AA Number of dwellings (outline) (RC8A) '63'
5. Layout in accordance with plan no. 033-002 Preliminary Layout
6. SC 3.0A Submit landscaping scheme (RC10A)
7. SC 3.1A Carry out landscaping scheme (RC10A)
8. SC 3.10A Open space (RC12B)
9. Development shall not commence until a drainage strategy detailing any on and/or

off site drainage works, has been submitted to and approved by, the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed. **Reason:** The development may lead to sewage flooding; to ensure sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community.

10. SC 9.4A Carry out mitigation in ecological report (RC85A) 'section 6.3'Extended Phase 1 Habitat Survey' 'Middlemarch Environmental' 'March 2010'
11. Contamination conditions
12. That prior to work commencing on site the proposed means of access (including vision splays) onto the Green Lane is to be formed, laid out and to the approval of the Local Planning Authority and constructed strictly in accordance with the highway authority's specifications and that all ancillary works specified shall be undertaken. (RC13BB)
13. That the vision splays shown on drawing 033-002 shall not be obstructed by any object, structure, planting or other material height. (RC13BB)
14. That the internal vehicle access vision splays shall be formed, laid out and constructed in accordance with detailed plans which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development and that the land and vegetation within the splays shall not be obstructed by any object, structure, planting or other material height. (RC13BB)
15. That before any of the dwellings are first occupied the whole of the estate roads, footpaths and pedestrian/cycle links shall be laid out, constructed, lit and drained and if required temporary or permanent traffic calming to the Oxfordshire County Council's Specifications. (RC14AA)
16. That, before any of the dwellings are first occupied, the proposed vehicular accesses, driveways and turning areas that serve those dwellings shall be constructed, laid out, surfaced and drained (SUDS) in accordance with the specification details to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. (RC14AA)
17. Before the development is first occupied the parking and manoeuvring areas shall be provided in accordance with the plan (*to be agreed at reserved matters stage*) hereby approved and shall be constructed, laid out, surfaced, drained (SUDS) and completed, and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times. (RC13BB)
18. That all construction traffic serving the development shall enter and leave the site through the new access; wheel washing facilities on construction sites (for HGVs) should also be requested (when appropriate). Construction travel plan also required i.e. no HGVs through middle of village. (RC18AA)
19. SC 6.6AB No conversion of garage (RC35AA)
20. That prior to the commencement of building work plans detailing the extension of the 30mph speed limit, the relocation of the existing traffic calming features and additional features shall be submitted to and approved in writing by the Local Planning Authority. The improvements works shown on the approved plans shall be completed prior to the first occupation of the development. (RC13BB)
21. SC 9.6 Fire Hydrants (RC87A)
22. No development shall take place until a scheme to deal with surface water drainage for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the

development is completed.

The scheme shall also include:

- Greenfield runoff rate at 6l/s as detailed in the FRA
- Details of tanked permeable paving as mentioned in drawing no. MS40631-SK100 submitted with the FRA H423/03
- Details of diversion of the surface water runoff for the northern and western areas of the development to the drainage ditch without pumping
- Details of the size of pump and volumes of runoff that need to be stored after diverting the northern and western areas into the brook
- Details of the pumped surface water to be pumped into the drainage ditch to the west of development as detailed in the FRA H423/03
- The designated flood route to pavilion car park for temporary flood storage in the event of flood failure

Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system in line with PPS25 and PPS9

23. No development approved by this permission shall be commenced until a scheme for the improvement of the existing sewerage system has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved. No occupation of dwellings approved by this permission shall occur until the scheme for improvement of the existing sewage system has been completed.

Reason: The foul drainage from this development will drain to Bicester Sewage Treatment Works. It is essential that the developer confirms with the sewerage undertaker that; a) sufficient capacity remains to properly deal with the additional load and b) the sewerage conveying foul drainage to these works has sufficient hydraulic capacity.

Suggested planning notes if approved;

- a) Q1 – Legal agreement
- b) O1 – Archaeology
- c) Thames Water will aim to provide customers with a minimum pressure of 10m head (approx1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames water pipes. The developer should take account of this minimum pressure in the design of the proposed development.
- d) It is now a legal requirement to have a site waste management plan (SWMP) for all new construction projects worth more than £300,000. The level of detail that your SWMP should contain depends on the estimated build cost, excluding VAT. For projects estimated at between £300,000 and £500,000 (excluding VAT) the SWMP should contain details of the:
  - Types of waste removed from the site
  - Identity of the person who removed the waste
  - Site that the waste is taken to

For projects estimated at over £500,000 (excluding VAT) the SWMP should contain details of the:

- Types of waste removed from the site
- Identity of the person who removed the waste and their waste carrier registration number
- A description of the waste
- Site that the waste was taken to
- Environmental permit or exemption held by the site where the material is

taken

At the end of the project, you must review the plan and record the reasons for any differences between the plan and what actually happened.

You must still comply with the duty of care for waste. Because you will need to record all waste movements in one document, having a SWMP will help you to ensure you comply with the duty of care. Further information can be found at [www.netregs-swmp.co.uk](http://www.netregs-swmp.co.uk)

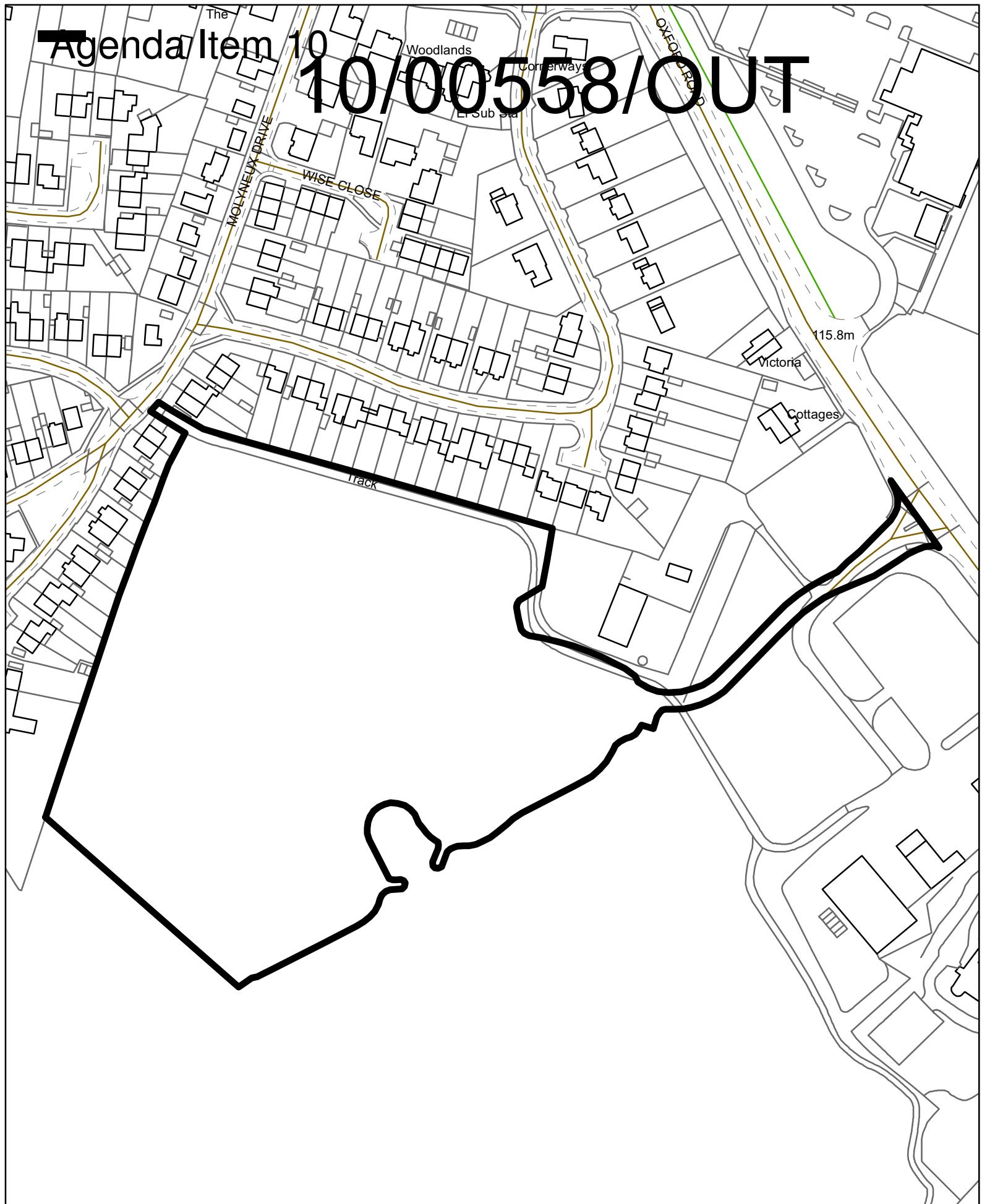
The car parking areas of the development should be drained via an oil separator to reduce the risk of oil pollution. The developer should consult Agency Pollution Prevention Guidelines NO 3 to ascertain the appropriate type. A download can be obtained from [www.environment-agency.gov.uk/ppg](http://www.environment-agency.gov.uk/ppg)

#### **SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES**

The Council as local planning authority, has determined the application having had careful regard to the development plan and other material considerations. Although the site is not allocated for development in the adopted Cherwell Local Plan the Council considers the following material considerations sufficient to justify the granting of planning permission as a departure from the adopted Local Plan. The need for the site to be developed to accord with the Council's strategy for meeting housing delivery requirements, development that results in high quality housing and minimises and mitigates landscape and other impacts has led the Council to consider the proposal acceptable. The proposal is in accordance with PPS3 – Housing and Policies BE5, H2 and H3 of the South East Plan.

**CONTACT OFFICER: Caroline Roche**

**TELEPHONE NO: 01295 221816**



**Scale 1:2,000**

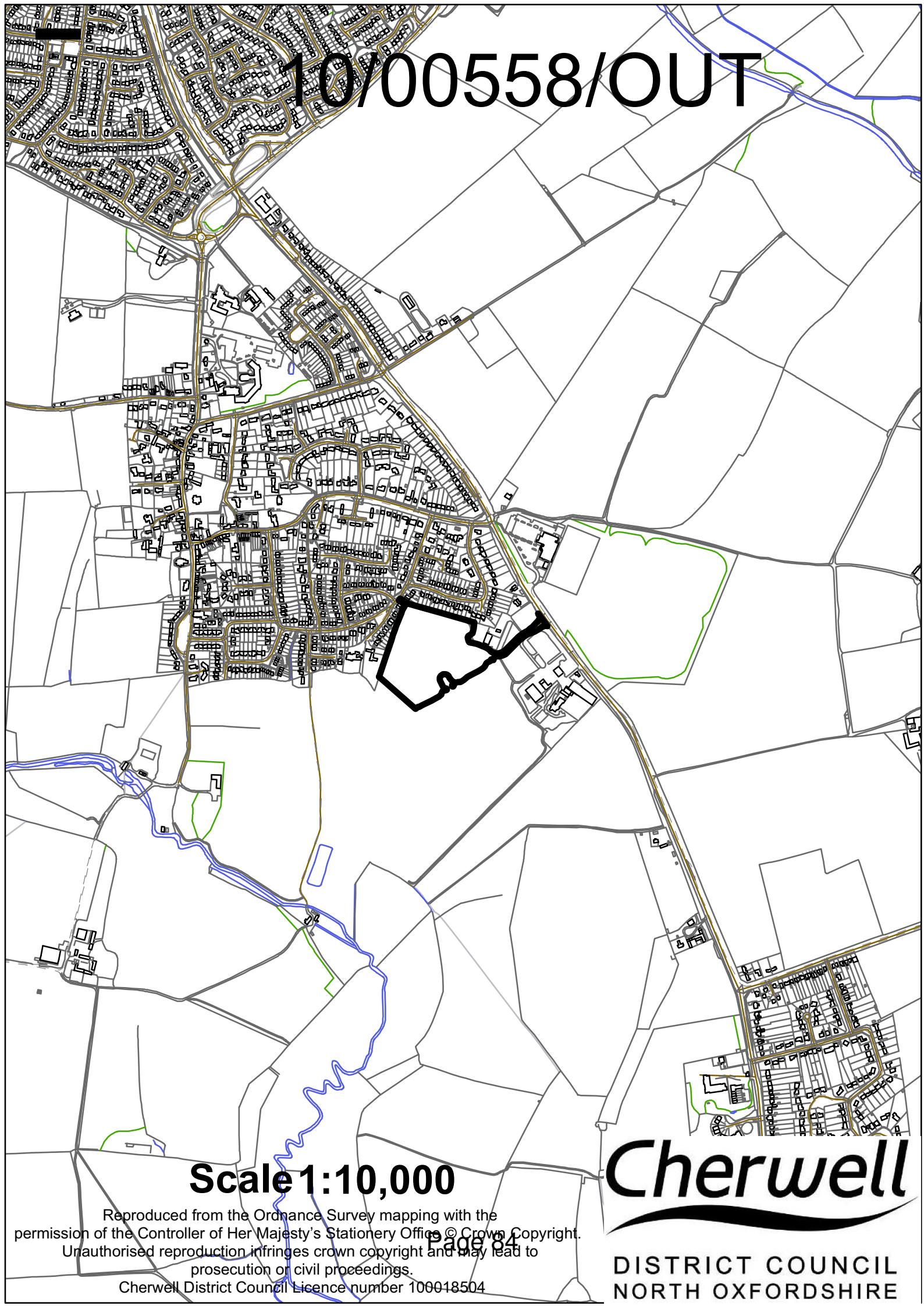
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10/00558/OUT



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<b>Application No:</b>	<b>Ward:</b> Bloxham and Bodicote	<b>Date Valid:</b> 14/04/10
<b>10/00558/OUT</b>		
<b>Applicant:</b>	Banner Homes Ltd., High Wycombe	
<b>Site Address:</b>	Land South of Blackwood Place and Molyneux Drive and North West of Cotefield Farm, Oxford Road, Bodicote	

**Proposal:** Outline application for residential development of 86 No. dwellings

### **Context**

The application has been submitted principally on the basis that the Council cannot demonstrate a 5 year rolling supply of deliverable (available, suitable and achievable) housing land. The current shortage in terms of housing numbers equates to 215 dwellings. At the time of writing there are a total of six undetermined housing supply related applications with the Council with the potential to generate some 391 homes. The applications are in Arncott x2, Bicester, Chesterton, Adderbury and Bodicote (the subject of this application). On 20 May 2010 Members refused an application for a development of 65 houses on land South of Milton Road Adderbury. Schemes at Milton Road Bloxham and Orchard Way Banbury totalling 81 units (net) received resolutions to approve subject to legal agreements.

On 27 May 2010 Communities and Local Government secretary Eric Pickles wrote to every local planning authority and the Planning Inspectorate highlighting the coalition Government's plans to abolish regional spatial strategies and stressing that decisions on housing supply "*will rest with LPAs without the framework of regional numbers and plans*". The Secretary of State said councils and the Inspectorate should "have regard to this letter as a material consideration in any decisions they are currently taking". This issue is considered throughout the report and has been afforded the appropriate weight in reaching the recommendation. There has been no further information on the timing of the revocation of the RSSs.

## **1. Site Description and Proposal**

- 1.1 This application is for outline consent for 86 residential units of accommodation, the majority of which are proposed to be dwellings whilst a small proportion may be flats. The application has been amended so that all matters with the exception of the access are reserved for a later application process. The access is intended to be taken from the existing access off Oxford Road and enter the site to the south west of the garden centre.
- 1.2 The site itself consists of agricultural land of approximately 3.77 hectares. It is bounded by Blackwood Place on the northern boundary, Keyser Road on the western boundary, an open agricultural field to the south and the existing garden centre to the east. In the north western corner of the site is a farm access onto Molyneux Drive. It is intended that this be used for pedestrian access into Bodicote village.
- 1.3 The site rises in height from the south to a ridge that runs on a north east to south west alignment. This results in the site being elevated in comparison with the buildings that make up Cotefield Farm, but it sits either level with or lower than the adjacent houses which bound the site.

1.4 Whilst this application is in outline only an indicative plan has been submitted along with indicative elevations, Planning Supporting Statement, Design and Access Statement, Transport Statement, Landscape Assessment, Phase 1 Habitat Survey, Flood Risk Assessment, Phase 1 Environmental Risk Assessment and a Tree Survey and Hedgerow Evaluation.

1.5 Planning History  
There is only one application of significance to this site and proposal.  
05/02180/OUT – Outline application for residential development – Refused for the following reasons;

1. *The proposed development would be contrary to Policies H13 and H18 of the adopted Cherwell Local Plan, Policies H15 and H19 of the Non-Statutory Cherwell Local Plan 2011 and Policies G1, G2, G5 and H1 of the Oxfordshire Structure Plan 2016 which seek to guide residential development to allocated sites or sites within the existing built-up limits of settlements. In this case the site is not allocated for development in either the adopted or Non-Statutory Local Plan but lies outside the existing built-up limits of the settlement. It is therefore classed as countryside where its development would constitute an unjustified and undesirable intrusion into the countryside surrounding the village of Bodicote, which would be contrary to the policies intended to protect the character and appearance of the countryside. Furthermore, it is considered that the release of this large rural, greenfield site against Council policy would prejudice future assessments and decisions on the Council's Core Strategy and Banbury and North Cherwell Site Allocations Development Plan Document, as part of the Local Development Framework, about the most sustainable means of meeting the Council's housing requirements, as set out in the Oxfordshire Structure Plan 2016.*
2. *The proposed development would be contrary to Policy C13 of the adopted Cherwell Local Plan, Policy EN34 of the Non-Statutory Cherwell Local Plan 2011 and Policy EN1 of the Oxfordshire Structure Plan 2016. The site is situated within an Area of High Landscape Value and the location and scale of the proposed development would have an adverse visual impact upon the rural character and landscape value of this locality, increasing the outward spread of the village and intruding into the unspoilt countryside surrounding the settlement.*
3. *In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not convinced that the infrastructure directly required to service or serve the proposed development, including affordable housing, open space/play space, off-site playing pitches, off-site indoor sports facilities, education facilities, library facilities, fire infrastructure and transport measures will be provided, which would be contrary to Policy G3 of the Oxfordshire Structure Plan 2016, Policies H5, TR1 and R12 of the adopted Cherwell Local Plan and Policies H7, TR4, R8, R9 and R10A of the Non-Statutory Cherwell Local Plan 2011.*
4. *In the absence of a satisfactory archaeological field evaluation, the Local Planning Authority is not convinced that the proposed development can be undertaken without resulting in the loss of archaeological deposits which would be contrary to Policy C26 of the adopted Cherwell Local Plan, Policy EN47 of the Non-Statutory Cherwell Local Plan 2011 and Policy EN6 of the Oxfordshire Structure Plan 2016.*
5. *In the absence of an accompanying Transport Assessment, the suitability of the site in terms of a sustainable impact on the adjacent highway network and the adequacy of the site access cannot be assessed. The Local Planning Authority therefore is not convinced that the proposed development can be undertaken without detriment to highway safety, which would be contrary to Policies TR2 and TR3 of the adopted Cherwell Local Plan, Policies TR2, TR3 and TR5 of the Non-Statutory Cherwell Local Plan 2011 and Policies T1 and T8 of the Oxfordshire Structure Plan 2016.*

That application was submitted by the same applicants as the current proposal. An appeal was submitted but subsequently withdrawn.

## 2. Application Publicity

2.1 The application was advertised by way of a site notice, press notice and neighbour notification letters. The final date for comment was 1 June 2010. However any letters received after this date but prior to the date of Committee will be reported to Members at the Committee meeting.

2.2 44 letters of objection have been received from neighbouring residents. The main reasons for objecting are set out below;

- Surrounding bridleways already hotspots for antisocial behavior and more houses will encourage more bad behavior
- More houses may increase the frequency of burglaries
- New development will destroy natural beauty of the area
- Loss of light from the rear of properties due to proximity of houses and new planting
- Loss of views from private houses and village, currently the steeple of Adderbury Church can be seen
- Ruining walking routes
- Will result in the loss of agricultural land which produces food crops
- The character of the copse will change
- Bodicote is already having to cope with new build at Bankside and has been developed to its capacity
- Already going to experience higher level of traffic from Bankside and relocation of Banbury United Football Club resulting in more pollution and congestion
- Increased demand on school places and insufficient capacity
- Impact on wildlife that currently exist on site
- Will encourage non-Bodicote and non-UK residents into the village
- Bodicote will become one big housing estate
- Intrusion into landscape will take away character of area. Study commissioned by CDC in 1995 stated that the land immediately south of Bodicote is an area 'where landscape character is still reasonably strong and worthy of conservation'. Why therefore is such a development being considered?
- The site is not allocated in any Policy document. Allocated sites should be used first
- The application is contrary to Policy H13, H18, C13, C28 and C33
- The building will be out of proportion and will cause obstruction and intrusion onto valued views and landmarks
- Increase noise and light pollution
- Higher density than Bodicote
- Parking will become an issue as families grow as there is currently insufficient
- Gardens will be too small to result in pleasant environment
- Room sizes are also likely to be small
- Drainage into reservoir and Sor Brook is concerning as the area does flood in times of heavy rainfall

- Drainage system for waste water is old and inadequate
- Overall impact of proposed development is not assessed in the submission
- The garden centre tea room will be affected as customers will not want to sit and view a building site
- This development does not appear to help those looking for a home in terms of providing affordable housing
- No plans to introduce an extra school building, library or other community facilities the development will not enhance the settlement in either an aesthetic or practical sense.
- There are a number of brown field sites in Banbury that need to be considered as a priority for housing
- Two storey homes are proposed to the rear of bungalows
- Lack of public consultation prior to the application being submitted
- If approved the development would set a precedent
- The houses are not needed as there are already a number of vacant properties in and around Banbury and Bodicote
- The proposed layout fails to accord to the pattern of development adjoining the site and appears as a separate, self contained development rather than a planned extension to the village
- Consideration has not been given to The Red House and Cotefield House, two of the most important houses in Bodicote
- Reduction in property values in the area

### 3. Consultations

3.1 **Bodicote Parish Council** has strong objections to the proposal, these are summarised below;

- The land is not allocated for development within any adopted, Non-Statutory or draft planning policy document
- The proposal conflicts with Policies H1, H13, H18, C7 and C8 of the adopted Local Plan and Policies H1a, H2, H15, H19, EN30 and EN32 of the Non-Statutory Local Plan and Policies G1 and H1 of the Oxfordshire Structure Plan
- Insufficient parking provision and an underestimation of the number of cars in each household
- Although the development contains some form of affordable housing it is not considered that 3 bedroom dwellings are affordable
- Insufficient capacity in local school
- Existing traffic problems will be exacerbated and it is not clear how the traffic assessment has concluded that there will be no additional problems
- The site is not sustainable in terms of access to jobs, shopping, leisure facilities and services. The village only has one shop
- The flooding issues have not been fully explored as downstream conditions are unknown
- The proposal will not enhance the southern edge of Bodicote and the Landscape Assessment argument is spurious
- Development will cause harm to topography and character of landscape, contrary to Policy C7
- Due to densities and small gardens the development is out of keeping with the adjoining street scene and looks more like a holiday village
- Will cause noise and light pollution to neighbouring properties

- Approval of this scheme will set a precedent

3.2 The **Council's Head of Planning Policy and Economic Development** has made the following comments;

The site comprises 3.77 hectares of agricultural land. The site is not allocated for development in either the South East Plan 2009 or the saved (adopted) Cherwell Local Plan 2011; nor is it allocated in the Non-Statutory Cherwell Local Plan 2011. I consider the main planning policy considerations below.

South East Plan 2009

Policy SP3 of the South East Plan states that the prime focus for development should be urban areas in order to foster accessibility to employment, housing, retail and other services and avoid unnecessary travel. LPAs are required to formulate policies which, amongst other things, concentrate development within or adjacent to urban areas and seek to achieve at least 60% of all new development on previously developed land.

Bodicote is not considered to be an urban area and as the application site comprises greenfield land it would not contribute to achieving this 'brownfield' target.

Policy BE5 states that in preparing Local Development Documents (LDDs), LPAs should plan positively to meet the defined local needs of their rural communities for small scale affordable housing, business and services. LDDs should define the approach to development in villages based on their functions performed, their accessibility, the need to protect or extend key local services and the capacity of the built form and the landscape setting of the village. All new development should be subject to rigorous design and sustainability criteria so that the distinctive character of the village is not damaged.

I consider Bodicote to be one of the district's most sustainable villages in terms of the presence of local services and facilities, including a regular bus service, and in view of its proximity to a large urban area. It is a Category 1 village in both the saved and non-statutory Local Plans and is proposed to be a Category A village in the Council's Draft Core Strategy (proposed policy RA1). It is therefore a reasonable location in which to consider accommodating limited development in the interests of meeting the needs of rural communities, particularly the need for affordable housing, in the context of policy BE2. The impact of the proposal on village character will of course need detailed consideration.

Policy H2 of the South East Plan states that Local Planning Authorities (LPAs) will work in partnership to allocate and manage a land supply to deliver both the district housing provision [13,400 dwellings from 2006 to 2026] and sub-regional/regional provision. In doing so, LPAs are required to take account of a number of considerations including:

- the scope to identify additional sources of supply elsewhere by encouraging opportunities on suitable previously developed sites;
- providing a sufficient quantity and mix of housing including affordable housing in rural areas to ensure the long-term sustainability of rural communities;
- the need to address any backlog of unmet housing needs within the housing market area in the first 10 years of the plan.

The policy requires LPAs to plan for an increase in housing completions to help meet anticipated need and demand. Housing land supply is considered later in these comments.

Policy H3 requires a substantial increase in the amount of affordable housing in the region to be delivered including by taking account of housing need and having regard to the overall regional target that 25% of all new housing should be social

rented and 10% intermediate affordable housing. The application's proposal for 35% affordable housing is higher than the Council's current requirement of 30% and is in line with the requirements of policy HE3.

The Council's Draft Core Strategy (para' A.142) states that local housing needs estimates (2009) suggest a need for some 390 affordable homes per year (288 on top of the current average supply of 102 per year). The 2009 Annual Monitoring Report notes however (para' 5.57) that the Council remains on track to meet the Housing Strategy target of at least 600 dwellings from 2005 to 2011.

#### Saved (Adopted) Local Plan 1996

Policy C8 of the saved Local Plan seeks to resist sporadic development in the open countryside whilst policy C7 seeks to prevent demonstrable harm to the topography and character of the landscape (the site lies within an Area of High Landscape Value (AHLV) - see policies C13 and C28). Policy C30 requires the character of the built environment to be considered.

As the proposal entails the loss of greenfield land in open countryside there is a need to consider the district's housing land supply position (below) as well as whether there would be unacceptable harm to landscape and local character.

#### Non-statutory Cherwell Local Plan 2011

Policy H1a of the Non-Statutory Cherwell Local Plan 2011 sets out criteria for considering proposals for new housing development which include the availability and suitability of previously developed sites and empty or under-used buildings for housing and, in the case of category 1 and 2 villages such as Bodicote, whether it would meet an identified local housing need (not just affordable housing). These policies must now be considered in the context of Planning Policy Statement 3 (Housing) which provides current national policy on managing housing land supply (see below).

The Non-Statutory Plan contains similar restrictions on building beyond the built up limits of settlements and to achieve protection of the landscape and local character as the saved local plan (policies H19, EN30, EN34 and D3).

Policy R6 of the Non-Statutory Plan encourages the provision of new or extended sporting and recreation facilities. Policy R8 sets out standards for the provision of children's playspace and formal sports provision, and policy R9 seeks provision of amenity open space. I understand that comments on recreation / open space provision are to be provided separately from this response.

#### Housing Land Supply

Planning Policy Statement 3 (PPS3) requires a flexible supply of land for housing by, amongst other things, maintaining a five-year rolling supply of deliverable (available, suitable and achievable) housing land. LPAs are required to monitor the supply of deliverable sites on an annual basis, linked to the Annual Monitoring Report review process.

The Council's 2008 Annual Monitoring Report (AMR) noted that the district had a 5.3 year rolling supply for the period 2009-2014. The 2009 AMR shows that for the same period the district now has a 4 year supply rising to 4.5 years for 2010-2015 and 5.1 for 2011-2016. However, on 18 February 2010, the Planning Committee resolved to grant permission, subject to legal agreement, for 33 social housing units (20 net additional homes) at the Orchard Way Shopping Parade, Banbury; and, on 11 March 2010 the Committee resolved to grant permission, subject to legal agreement, for a development of 61 homes on land south of Milton Road, Bloxham. Those developments are considered to be deliverable by 2015 and increase the rolling supply of deliverable housing land for 2010-15 (i.e. for the current monitoring year - 10/11) from 4.5 years to 4.6.

PPS3 requires scenario and contingency planning to identify different delivery

options, in the event that actual housing delivery does not occur at the rate expected. Policies and proposed management actions are expected to reflect the degree to which actual performance varies from expected performance, as indicated in housing and previously developed land trajectories. Where actual performance, compared with the trajectories, is within acceptable ranges (for example within 10-20 per cent), and future performance is still expected to achieve the rates set out in the trajectories, PPS3 states that there may be no need for specific management actions at that time and that LPAs will wish to continue to monitor and review performance closely and consider the need to update the five year supply, of deliverable sites where appropriate.

In accordance with PPS3, the district's rolling supply of deliverable housing land takes no account of unidentified, small site windfalls. Planning permission does exist for some additional 500 homes which if 90% implemented would be more than enough to boost rolling supply over 5 years in 2010/11. However, small, unidentified windfalls cannot be considered until they are recorded as complete. New LDF sites will also emerge over the next couple of years, boosting both near and long-term supply. Once such sites are considered to be available, suitable and achievable as defined by PPS3 they could be considered as part of the rolling supply of deliverable sites.

At the present time, however, it is considered that there remains a need to increase the supply of housing that will be delivered over the period 2010/11 to 2014/15 so that the rolling supply of deliverable land increases back towards 5 years (from 4.6 years) for the year 2010/11. Recorded housing completions are expected to be low for 09/10 with a provisional figure of 443 compared to a South East Plan requirement of 670 per annum. Completions are expected to be lower in 10/11 as projected by the AMR (181 excluding unidentified 'windfalls' on small sites of less than 10 dwellings).

PPS3 states that where LPAs cannot demonstrate an up-to-date five-year supply of deliverable sites, they should consider favourably planning applications for housing, having regard to the policies in PPS3 including the following considerations:

- achieving high quality housing
- ensuring developments achieve a good mix of housing reflecting the accommodation requirements of specific groups, in particular, families and older people;
- the suitability of a site for housing, including its environmental sustainability;
- using land effectively and efficiently;
- ensuring the proposed development is in line with planning for housing objectives;
- reflecting the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives.

In the context of the district's current housing supply position, this application should be carefully considered to see whether or not it meets PPS3 criteria as well as other policy considerations including the South East Plan, the saved policies of the adopted Cherwell Local Plan 1996 and the Non-Statutory Cherwell Local Plan 2011. As a 'regulation 25' consultation document, the Council's Draft Core Strategy carries little weight. However, it sets out proposed directions of growth for the district having regard to available evidence. I am of the view that, in principle, the proposed development would not prejudice the continued preparation of the Core Strategy. Although the site lies in a rural area, outside built-up limits, Bodicote is one of the district's most sustainable villages and has been identified (proposed

policy RA2) as a village at which it would be sustainable to accommodate some additional housing. The scale of development proposed in the application is also in keeping with the draft policies for rural areas. Careful consideration should nevertheless be given to detailed issues including the site's relationship with the village's built up area and accessibility to services and facilities.

If the proposed development were to be considered favourably, it must be clearly be demonstrated that the site is deliverable (available, suitable and achievable) and capable of being recorded as complete by the end of the next 5 year rolling period i.e. by 31 March 2015. Completions after this date would have no effect on increasing the rolling supply for 2010/11 from 4.6 years. Sufficient certainty is needed to enable the site to be added to the district's rolling supply of deliverable housing land upon any resolution to approve. If shown to be deliverable, it is expected that the site would increase the rolling supply of deliverable housing land for 10/11 from 4.6 to 4.8 years.

I understand that at the time of writing there are another four planning applications (for 10 or more dwellings) which together have the potential to generate about 303 dwellings. Please note that on this basis, if this application were not to be approved there would still be the potential to return to a 5 year rolling supply.

### 3.3 The Council's Urban Design Officer has made the following comments

The land lies on the south eastern fringes of Bodicote village from where attractive views over the Sor Brook Valley and towards Bloxham Church spire may be enjoyed and thus *vice versa*. The built up edge of the village here comprises bungalow development and rear gardens which can be seen from the extensive public rights of way in the area and, to a lesser extent, from the A4260. The proposal is to infill and slightly extend this village boundary. In terms of urban design there are some potential benefits from development of this site in that it could present an improved interface with the open landscape to the south. The indicative layout submitted with the application indicates a south east facing frontage overlooking the landscape which funnels open space into the site. The layout is formal and totally symmetrical, reminiscent of garden city style development. The Design and Access Statement undertakes an analysis of urban form in local villages and nowhere does it reveal that Garden City style formality is a locally distinctive morphology. The street frontages are also very straight and equally spaced, with a standard highway wriggling around meaninglessly within the frontages, quite contrary to either the findings of the DAS or the advice in the Manual For Streets. This point has been made to the applicant during pre-application discussions but only the frontage to the landscape to the south has been significantly amended. In terms of neighbour amenity, the existing bungalows currently enjoy pleasing views which will be lost through this development. Whilst the LPA is not empowered to protect views, I do believe we could, at RM stage, seek a longer distance between existing properties and the footprint of the new dwellings. Nevertheless, I consider that in terms of area, the land included in this application is appropriate for development. However I would not make that comment were the building line to extend further into open countryside. Notwithstanding the layout, which is reserved, that submitted with the application illustrates that the number of dwellings for which permission is sought can be

accommodated satisfactorily on the site.

3.4 The Council's Landscape Planning Officer has made the following comments;

- The site is reasonably well contained visually on 3 sides
- Positions of existing trees along the boundaries have not been marked on the plans. There are a number of substantial trees that have been ignored whilst drawing up the plans.
- Preference would be for boundary hedges but this requires more space
- Would like to see substantial barrier along SE boundary, except where more open views towards the spire are required
- Like the central axis allowing views to Adderbury church spire
- Plans do not show and LAPs or LEAPs

3.5 Oxfordshire Country Council's Strategic Planning views are set out below;

**Housing land supply:** Cherwell District Council currently does not have a 5 year supply of land for housing. PPS3 (para 71) states that where local planning authorities cannot demonstrate an up-to-date 5 year supply of available, suitable and achievable sites, they should consider favourably planning applications for housing, subject to a number of considerations including whether the proposed development is in line with planning for housing objectives, reflects the need and demand for housing in, and the spatial vision for the area and does not undermine wider policy objectives. This proposal would form a large-scale development that would extend into the surrounding countryside, and would deliver the entire allocation of housing currently proposed in the draft Core Strategy for Bodicote in one application. When deciding this application the District will need to assess whether the location and scale of development proposed would be consistent with the spatial vision for villages in the emerging core strategy, specifically Category A villages in the north of the district. They will also need to take into account existing permissions and proposed allocations of housing planned for the south east of Banbury at Bankside as these sites are in close geographical proximity to this proposed development and would increase the population of this area considerably.

**SE Plan Regional Spatial Strategy:** Bodicote is a rural community with a population of approximately 2000; expansion of the village by an additional 86 houses would represent roughly a 10% increase in population. Development here would contribute to meeting the housing figure contained in policy AOSR1 of the SE Plan; however policy BE5 of the SE Plan on village management supports only limited small-scale development that can help meet the specific local housing needs of rural settlements and sustain local services and facilities. The scale of this development is not 'small-scale' and would be inconsistent with the policy. Bodicote is identified as a Category A village in the draft Core Strategy as it is a relatively sustainable location with a reasonable range of services and facilities and together with Adderbury, Bloxham, and Deddington, it is proposed to provide a total of 350 dwellings. The amount of housing proposed in this application would seemingly fit with the district's allocation of housing numbers amongst category A villages contained in their draft Core Strategy; however it would deliver the allocation in its entirety and in a single location. We would have concerns that the pace of delivery would create problems of social cohesion and integration and would not fit with the sustainability criteria for villages contained in policy BE5 of the SE Plan nor meet County Council priorities or Oxon 2030 objectives for creating healthy and thriving communities. In deciding the outcome of this application the district should be mindful of the granted permission in Bloxham for 61 dwellings and the applications

pending to the north of Milton Road, Adderbury for 35 dwellings and to the south of Milton Road in Adderbury for 65 dwellings, and assess how all of these proposed developments fit with their aspirations for overall growth in Category A villages contained in the draft Core Strategy. It is our view that the cumulative effect of housing development should meet identified local housing needs and continue to strengthen the viability of Bodicote and the other 3 villages rather than (as is potentially the case here) have a detrimental effect on the character of the villages and place pressure on their services and facilities, which would be contrary to policy BE5 of the SE Plan.

**Infrastructure and service provision:** The application is being considered by the County's developer funding team who are responding separately in the normal way. The scale of the proposed development would generate additional demands for County services and facilities, especially schools. Currently there is no spare capacity in the local primary school, Bishop Loveday C of E Primary School, or room for its expansion. If sufficient space could not be created, the children from the new development would either need to be accommodated in, and sometimes transported to, other nearby schools where places could be provided. The alternative impact is that they would displace children currently eligible for places at the school to other schools which would then need additional space. If the district council is minded to permit the proposal, permission should be subject to a Section 106 agreement to secure any necessary contributions and improvements to service infrastructure in line with SE Plan policies CC7 and S3.

**Development in the open countryside:** The development would extend the built up area of the village further into open countryside. The district is best placed to assess the impact of the development on the landscape setting of the village.

**Affordable housing and mix:** The development would provide a mix of 2, 3, 4 and 5 bedroom dwellings with 35% planned to be affordable. This mix is consistent with policies H3 and H4 of the SE Plan which seek to provide a minimum of 35% affordable housing in new developments; and provide housing to support the needs of the whole community respectively. The proposed mix of housing would assist in creating healthy and thriving communities - one of the County Council's priorities and an Oxfordshire 2030 objective.

**Resource use, climate change and environmental issues:** Environment and climate change are County Council priorities and Oxfordshire 2030 objectives. The SE Plan seeks to achieve sustainable development through policy CC1 and to adapt to and mitigate climate change as outlined in policy CC2. Therefore we would encourage dwellings to be built to Code Level 3 of Code for Sustainable Homes which would be in line with policy CC4 of the SE Plan and the Oxfordshire Sustainable Construction Advice Note (2009), which has been approved by Cherwell for development control purposes. We would also support development that incorporates the principles of Sustainable Urban Drainage solutions (SUDs) which would be consistent with policy NRM4 of the SE Plan.

**Transport and Highways:** The comments of the County Council as Highway Authority will be dealt with separately in the normal way. The proposed access to the site would be achieved via an existing junction with the A4260 Oxford Road. This junction is currently at capacity and there are concerns that further development would cause drivers difficulty in leaving the site at peak times in terms

of convenience and safety which would be contrary to policy T1 of the SE Plan which seeks to reduce the overall numbers of road casualties. Should the district be minded to permit the application then the applicant would need to investigate ways to mitigate this problem, perhaps through a different style of junction and any permission should be subject to a legal agreement to secure contributions in line with BanITLUS.

**Local Member Views:** Cllr Keith Mitchell has expressed concerns over the scale of development proposed and congestion this may cause on the A4260/ Oxford Road.

**Conclusion:** We would support in principle housing development which would meet identified housing needs and which contributed to the socio-economic well-being of the local community. However, the amount of housing proposed in this application is not small in scale and would significantly increase the population of Bodicote, running counter to policy BE5 of the SE Plan which requires local planning authorities to plan positively to meet the defined local needs of rural communities and maintain the distinctive character of villages. Growth of this scale and pace in Bodicote would also place pressure on infrastructure, especially on the local primary school which would struggle to cope with the extra demand for places; children would potentially need to travel to school(s) out of the village where additional places could be provided. This would be contrary to policy T1 of the SE Plan that seeks to reduce journey lengths, policy S3 which requires the location of education facilities to be accessible to the communities they serve and would not support the creation of healthy and thriving communities, one of this Council's priorities and an objective of Oxon 2030. Residential development at this site would also place additional pressure on an already at capacity junction with the A4260 and in turn could have safety implications for drivers attempting to leave the site at peak time, contrary to policy T1 of the SE Plan that seeks to reduce the number of road casualties. Nevertheless, should the district be minded to permit the proposal, it should be satisfied that development of this size would meet an identified local need and permission should be subject to a legal agreement to secure contributions towards improved transport infrastructure (including any mitigation requirements) and necessary supporting non- transport service infrastructure, including additional primary school accommodation at an appropriate school and any additional school transport costs.

**RECOMMENDATIONS:** It is RECOMMENDED that the County Council from a strategic policy perspective informs Cherwell District Council in relation to the development proposed in application number 10/00558/OUT that:

- a) It objects to the scale of development proposed as it would be large in scale and would generate significant additional population in a village which lacks a reasonable range of jobs, services and facilities, would be likely to place pressure on existing infrastructure, especially schools, and would give rise to increased travel by motorised means, particularly by private car to Banbury and beyond. As such it is contrary to the sustainability objectives of SE Plan policy BE5 for village management, SE Plan policy CC2 which seeks to reduce the need to travel as a means to mitigate climate change, SE Plan policy T1 which seeks to locate development so as to reduce journey lengths and to the thrust of PPG13. It would also run counter to the strategic objectives of Oxfordshire 2030 and this Council's priorities for creating healthy, thriving communities;
- b) It objects to the scale of development and the strain it would place on the existing junction which is proposed to be used as an access to the site. This junction is

currently at capacity and development would compromise the safety of drivers leaving the site during peak hours contrary to policy T1 of the SE Plan; and c) Should the district, after considering the above, be minded to permit the development it should be satisfied that the scale of development would meet an identified local need in line with policy BE5 of the SE Plan and permission should be subject to a legal agreement to secure contributions to improved transport infrastructure (including mitigation to alleviate traffic concerns) and necessary supporting non- transport service infrastructure, including additional primary school accommodation at an appropriate school and any additional school transport costs.

3.6 **Oxfordshire County Council as Local Highway Authority** has made the following comments

Traffic flows along Oxford Road are such that turning movements associated with the site would be subject to significant delay during peak hours. The LHA considers drivers, frustrated by the delay, would turn when there is not an appropriate break in the traffic flow, to the detriment of highway safety. Traffic modelling included within the submitted transport assessment highlights this problem; the model fails due to the flows involved. Therefore I recommend the application is refused. To resolve this concern the applicant should consider possible alterations to the access; alternatively the applicant may be able to provide greater evidence to justify the assertion of the TA, 'junctions will operate satisfactorily.'

Should the applicant resolve the issue above then I would have no objection in principle to the proposal. I have the following comments:

Although to the periphery of the settlements of Bodicote and Banbury the site benefits from shops, services and public transport links within reasonable walking and cycling distances. I consider the site to be relatively sustainable in transport terms, and recommend the provision of a travel plan to further encourage use of sustainable modes of transport. Appropriate cycle storage should be provided for all units,

Excepting the issues raised above, the site access is appropriate in terms of visibility and geometry.

The detailed layout of the development should be designed in accordance with the guidance of Manual for Streets. Appropriate provision must be made for parking, not only in terms of number but in terms of size, convenience and location. A mix of allocated and unallocated parking would provide greater efficiency; visitor parking must be provided and on-street parking may be incorporated. Parking areas as streets and footpaths should be overlooked and appropriately lit to ensure security and encourage use.

Appropriate levels of parking are quoted by the supporting documentation; however, I note the provision of garages, which are rarely used for parking. I recommend any garage must have minima dimensions of 3m x 6m and should not be converted to any other use.

Provision must be made for waste collection with appropriate turning heads for HGVs/refuse vehicles. Areas for adoption must include a service strip of 600mm, and doors, windows, etc must not open over any area to be adopted as public highway. SUDS must be incorporated within development and associated highway.

A financial contribution towards Banbury Integrated Transport Strategy will be requested via S106 agreement.

3.7 **Cllr Keith Mitchell**, County Councillor for the Bloxham Division, has made comments which are summarised below;

- Draft Core Strategy proposes a housing target for the four villages of Adderbury, Bloxham, Bodicote and Deddington of 350 houses over the sixteen years to 2026 of 350. Making a crude allocation across four villages in equal proportions and over sixteen years, suggests that each village might reasonably take 5½ houses per annum.
- Proposals to build in Bodicote will double the size of the village and create two halves of Bodicote:
  - a village with a mixture of fine old stone homes and more modern and less attractive sixties to nineties estates bolted around it with
  - a 21<sup>st</sup> century urban extension with all the failings of unimaginative design, excessive densities leading to ghastly little boxes and insufficient parking provision
- Another 86 houses adds insult to the considerable injury you have already inflicted. It will add to the traffic congestion that already exists on the main road and that the 1,400 houses will exacerbate and it will do absolutely nothing to create a cohesive and integrated community in Bodicote.
- Selecting Bodicote for further development is based on myth that it is a Category One village capable of taking further development. This assumption is fundamentally flawed. Compare Bodicote with Deddington or Bloxham. Both of these villages have a flourishing Market Square/High Street. In comparison, Bodicote has:
  - one Post Office and Stores;
  - a filling station and car sales facility that adds significantly to parking problems;
  - a primary school that is full and has insufficient parking for parents and staff that adds daily to congestion in White Post Road;
  - Cherwell's headquarters adding daily to congestion in White Post Road;
  - a farm shop that adds daily to congestion in White Post Road;
  - three public houses – just
  - a church and a chapel.

Bodicote does not have:

- a cash machine;
- a library – other than the mobile service;
- a take-away facility;

The additional 1,400 houses proposed will:

- destroy the separation of Bodicote from Banbury in violation of Cherwell's original policy of non-coalescence;
- double the size of this Domesday village;
- increase substantially congestion on the main road which is already a serious problem.

- On this basis alone, this application for 86 houses should be rejected.

- Series of technical reasons for your elected members to reject this application:
- This site is not allocated for housing development in the Cherwell Local Plan, the Abandoned Local Plan nor in the Local Development Framework,
- **The proposed development would be contrary to Policy H13.** large scale development is not supported by this policy and it is questionable whether the village is a Category One village
- **The proposal is contrary to Policy H18.**
- There is wholly inadequate parking provision on the proposed site.
- **Primary School provision** Bishop Loveday School is full. Primary schools at Adderbury, Bloxham and Deddington are either full or under pressure. Sending children by bus or taxi is neither sustainable nor acceptable to many parents.
- **Congestion** Refer to the Strategic County Council response
- The Transport Assessment failed to assess impact of other development in the area and it is based on inaccurate figures and scenarios that may not materialise, for example the construction of the south east relief road
- **Sustainable development:** There is very little in the way of jobs, shopping or services nearby. People in this proposed development will need to travel to get to work, do their shopping and access services.
- **Drainage & Flood risk Assessment** Pages 14 & 15 state that drainage would be to a reservoir and from thence to the Sor Brook and that downstream conditions are unknown. Given recent flooding problems in this area, the effects are an unknown quantity at this stage.
- **Landscape Assessment** This application represents wholly unacceptable encroachment into open countryside contrary to policies G1 and H1 of the Oxfordshire Structure Plan 2016, Policies H1 and C7 and C8 of the adopted Cherwell Local Plan and Policies H1a, H2, H19, EN30 and EN312 of the Abandoned Cherwell Local Plan.
- **Densities** The density is too high, the proposed gardens are ridiculously small and it is out-of-keeping with the adjoining street scene.
- It would also “interfere with valued views, vistas and landmarks”, a reason acknowledged by the District Council in its planning guidelines for refusing such applications.
- **Emerging government policy** The coalition government has signalled its intention to tear up the South East Plan and to revoke nationally imposed density and residential parking requirements.
  - Approval would impose on a village that has had more than its share of dumping a wholly unacceptable, inappropriate and unwanted development.

3.8 **Oxfordshire County Council's Archaeologist** makes the following comments (in summary);

- A predetermination archaeological field evaluation was requested under the previous application in 2005.
- Site is located in an area of archaeological potential
- Although there is no archaeological information from the proposal site itself given the presence of a number of identified sites within the vicinity it is

possible that archaeological deposits may be disturbed during ground works.

- In accordance with PPG16 it is recommended that prior to the determination of this application the applicant be responsible for the implementation of an archaeological field evaluation.

3.9 **The Environment Agency** raises no objections but states that without planning conditions the development poses an unacceptable risk to the environment and there would then be an objection.

3.10 **Thames Water** makes the following comments (in summary);

- Inability of the existing waste water infrastructure to accommodate the needs of the application. However this can be resolved by the inclusion of a planning condition.
- With regard to the surface water drainage it is the responsibility of the developer to make proper provision for drainage to ground, water courses or a suitable sewer. (See planning note)
- The existing water supply infrastructure has insufficient capacity to meet the additional demands of the development. However this can be overcome by a planning condition.

3.11 **Natural England** has made the following comments (in summary)

- In accordance with the findings of the Survey further and more detailed surveys should be undertaken to determine the activity of bats. If the results of the survey find any bat roost sites within the proposal boundary, then a Natural England licence should be sought and appropriate mitigation proposed and assessed for suitability.
- Any vegetation clearance should be undertaken outside of bird nesting season. Nest boxes which have been identified on several trees should not be removed during nesting season unless checked by a qualified ecologist.
- A preliminary survey should be undertaken in the reservoir to determine its suitability for great crested newts, along with the surrounding habitat as suitable foraging terrain. If any are found then mitigation will need to be designed and assessed.

In response to this the agent for the application provided Natural England with further information which has satisfied them sufficiently so as to withdraw the request for further survey work.

3.12 **The Council's Rural development and Countryside Manager** has made the following comments;

The proposed development would not affect any existing public rights of way.

I am pleased to see that there would be a pedestrian connection from Molyneux Drive (Transport assesment p21). The transport assesment and the D&A statement both indicate the potential for pedestrian access from the south-west of the site. Creating this link to the existing public rights of way network (via Bodicote FP6) will help to integrate the development with its rural setting. Without it, the development would feel 'sealed off' from the surrounding countryside. If possible I would like to see creation of this link (and dedication of it as a public right of way) as a condition if the application is approved.

## **4. Relevant Planning Policies**

### **4.1 South East Plan 2009**

- SP3 – Prime focus for development on urban areas
- CC1 – Sustainable development
- CC2 – Climate Change
- CC4 – Sustainable design and construction
- CC7 – Infrastructure and implementation
- BE5 – Plan positively to meet the defined local needs of rural communities for small scale affordable housing, business and services
- H2 - LPAs will work in partnership to allocate and manage a land supply to deliver both the district housing provision and the sub-regional/regional provision
- H3 – Requires substantial increase in the amount of affordable housing
- H4 – Type and size of new housing
- T1 – Manage and invest
- S3 – Education and skills
- AOSR1 – scale and location of housing development in the rest of Oxfordshire

**27 May 2010 – Letter from Eric Pickles**

### **4.2 Adopted Cherwell Local Plan**

- H5 – Affordable housing
- H12 – Housing in rural areas
- H13 – Category 1 Villages
- H18 – New dwellings in the countryside
- C7 – Topography and character of landscape
- C8 – Resist sporadic development in open countryside
- C13 – Areas of high landscape value
- C28 – Standards of layout, design and external appearance
- C30 – Character of built environment

### **4.3 Non-Statutory Cherwell Local Plan**

- H1a – Availability and suitability of previously developed sites
- H4 – Types/variety of housing
- H8 – Rural exception sites
- H15 – Category 1 Villages
- H19 – New dwellings in the countryside
- EN30 – Sporadic development in the countryside
- EN34 – Conserve and enhance the character and appearance of the landscape
- D3 – Local distinctiveness
- R6 – New or extended sporting and recreation facilities
- R8 - Provision of children's play space
- R9 – Provision of amenity open space

### **4.4 PPS 3 – Housing**

**PPG13 – Transport**

**PPS5 – Planning for the Historic Environment**

## 5. Appraisal

### 5.1 Main Planning Considerations

The main issues to consider in the determination of this application are as follows –

- Planning Policies
- Housing delivery and need
- Landscape and historic impact
- Design and neighbouring amenities
- Highway Impact
- Other material considerations

Each of the above points will be considered in turn.

### 5.2 Planning Policy

5.2.1 The adopted Cherwell Local Plan contains no specific allocation for the application site. It is therefore defined as countryside (i.e. previously undeveloped land) where there is a presumption against general residential development on unallocated sites without any special justification.

5.2.2 Policy H13 of the adopted Local Plan states that new residential development within Category 1 settlements, such as Bodicote, is restricted to infilling, minor development within the built up area of the settlement and the conversion of existing buildings; subject to other policies in the Local Plan.

5.2.3 Policy H18 of the adopted Local Plan states that new dwellings beyond the built up limits of settlements will only be permitted where they are essential for agricultural or other existing undertakings.

5.2.4 Although the site is bounded by development on three sides it requires building on agricultural land and is considered to lie beyond the existing built limits of Bodicote and in an area of open countryside. The built up limits of the village in this case are the rear boundaries of the properties within Blackwood Place and Keyser Road. Although the development will be adjacent to the garden centre and will barely extend beyond its most southerly point this too is considered to be beyond the built up limits of the settlement therefore strengthening the argument that the application site is beyond the built up limits of the settlement and not within it.

5.2.5 Whilst it could be argued that to a certain extent the proposal was a form of infilling (between the garden centre and the rear of Blackwood Place and Keyser Road) it does not comply with the Local Plan definition of infilling, nor is the site within the built up area of the settlement and the development is therefore contrary to Policies H13 and H18 of the adopted Cherwell Local Plan.

5.2.6 The application site has no specific allocation in the Non-Statutory Local Plan and is therefore defined as open countryside.

5.2.7 Policy H19 states that permission will only be granted for the construction of new dwellings beyond the built-up limits of settlements when it is essential for agriculture or other existing undertakings, or to provide a small, low-cost, affordable housing exception site to meet a specific and identified local housing need that

cannot be satisfied elsewhere. Policy H15 of the same plan identifies Bodicote as a Category 1 village and states that new residential development will be restricted to infilling, minor development comprising small groups of dwellings within the built up area of the village and conversions.

5.2.8 The proposal is contrary to Policies H15 and H19 of the Non-Statutory Local Plan for similar reasons to those outlined above in relation to the adopted Cherwell Local Plan.

5.2.9 On 27 May 2010 all Chief Planning Officer's were sent a letter from Eric Pickles, The Secretary of State, which sets out the intention to abolish Regional Strategies. The letter read as follows;

*I am writing to you today to highlight our commitment in the coalition agreements where we very clearly set out our intention to rapidly abolish Regional Strategies and return decision making powers on housing and planning to local councils. Consequently, decision on housing supply (including the provision of travellers sites) will rest with Local Planning Authorities without the framework of regional numbers and plans.*

*I will make a formal announcement on this matter soon. However, I expect Local Planning Authorities and the Planning Inspectorate to have regard to this letter as a material consideration in any decisions they are currently taking.*

5.2.10 Officers are of the view that although this is a material consideration the Regional Strategies are still current adopted policy. In this case the South East Plan is still the relevant adopted policy and until further guidance is received on what will replace Regional Strategies decisions should still be made in accordance with it.

### 5.3 Housing Delivery and Need

5.3.1 The Council's current position on housing delivery is set out in the comments of the Head of Planning Policy and Economic Development comments in detail at 3.2 above. These highlight that the Council currently has less than a five year housing land supply, as required by PPS3, identified at the current time. However for the current proposal to impact on this it would need to be demonstrated that it would be delivered by March 2015. Despite the application being in outline only the proposal seeks to demonstrate that this can be achieved by making the following statements in the submission;

- *The landowner is prepared to release the land for development immediately*
- *Banner Homes are in a position to begin construction as soon as practicable and are prepared to accept a condition requiring the submission of reserved matters within one year after the grant of outline planning permission and to accept a condition to implement the development within one year from a subsequent approval of reserved matters*

5.3.2 As the application has been submitted on the basis that the houses would contribute to the current shortage in housing land supply and the developers have sought to demonstrate that the scheme is deliverable it would be reasonable to shorten the timescales of both the outline and reserved matters applications to be no more than two years in total if planning permission were to be granted. Whilst an outline application is less favourable in deliverability terms than a detailed application, as further work is required in relation to layout and design, the ability to

adjust the time limits on any approval means that the overall time limit could be the same as that recently imposed on the application for residential development at Milton Road in Bloxham (09/01811/F).

5.3.3 In addition to seeking to demonstrate deliverability PPS 3 requires sites coming forward to meet the following requirements ;

- provide high quality housing;
- provide a good mix of housing reflecting the accommodation requirements of specific groups, in particular, families and older people;
- be suitable site for housing, including its environmental sustainability;
- represent an effective and efficient use of land;
- be in line with planning for housing objectives;
- reflect the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives.

5.3.4 Bodicote has consistently been allocated as one of the District's most sustainable villages capable of accommodating further housing development. Facilities in Bodicote include; nursery, primary school, 2 food shops (1 is a farm shop), 3 pubs, recreation area, village/community hall(s), Post Office and a regular bus service to Banbury. It continues to be allocated as such in the Draft Core Strategy. Therefore in general terms Bodicote is a preferred location for the allocation and provision of land for housing.

5.3.5 No parish level housing needs survey has been carried out for Bodicote but there are 30 people with a local connection on the housing register. This scheme would provide a mix of market and affordable dwellings. 35% of the properties are proposed to be affordable, which equates to 30 affordable dwellings. It is considered that this could contribute to meeting the shortfall in housing land supply and at the same time would help meet local needs for affordable units of accommodation.

#### 5.4 Landscape and historic impact

5.4.1 The site lies within the Ironstone Downs Area of High Landscape Value where policies C13 and C28 of the adopted Cherwell Local Plan seek to conserve and enhance the environment and require development to be sympathetic to the character of the area. Policy EN34 of the Non-Statutory Local Plan also seeks to conserve and enhance the environment.

5.4.2 As indicated earlier the site lies beyond the built-up limits of the village in an area of open countryside. As a result of the triangular shape of the site it is physically contained on its two northern boundaries by existing residential properties. The south western boundary is screened by tree planting but the land rises on the application site away from the trees, meaning that it is unlikely that all the new properties will be screened from this direction. The south/south easterly boundary will be exposed with some new planting proposed along this boundary. The site is set back from the main Oxford Road by approximately 145 metres.

5.4.3 The location and scale of the proposed development would have an adverse effect upon the rural character and landscape value of this locality. Despite the illustrative setting-back of the development from Oxford Road, the residential

development would be visible and prominent within the setting of Bodicote and the Sor Brook Valley. In landscape terms, the development of the site would intrude into the unspoilt countryside surrounding Bodicote. This is a view that was reached in 2005 and with the exception of some planting to the south west the site characteristics have not changed and the comments still apply. Therefore the proposal would be contrary to Policy C13 of the adopted Cherwell Local Plan, Policy EN34 of the Non-statutory Local Plan and Policy BE1 of the South East Plan.

5.4.4 There are no listed buildings in close proximity to the site and the Bodicote Conservation Area will not be seen in relation to the site therefore there will be no adverse impact on the setting of listed buildings and the character and appearance of the Conservation Area will be preserved.

5.5 Design and Neighbouring amenities

5.5.1 The submission suggests that the developable area of the site is 3.4 hectares in a housing density of approximately 25 dwellings per hectare. This density is likely to be greater than that found on adjoining sites but is less than the minimum of 30 dwellings per hectare which was recommended in PPS3 Housing prior to its revision in June of this year. However the revised PPS3 has removed reference to a specific density and replaced it with the following statement;

5.5.2 'Local Planning Authorities may wish to set out a range of densities across the plan area rather than one broad density range.'

5.5.3 As the Council has not yet set its own densities it seems appropriate that where the principle of development is acceptable the density should reflect the surrounding development whilst making efficient use of the land. If the principle of development on this site was acceptable it is considered that the proposed density is appropriate as in the majority of cases the gardens are of an appropriate size and the provision of 2.5 spaces per dwelling there is likely to be adequate parking.

5.5.4 From an urban design perspective the Council's Design and Conservation Team Leader has suggested that the development of the site could provide an improved interface with the open landscape to the south. This is in comparison with what exists where the built form meeting the countryside is of rear facing elevations and enclosed gardens on a straight and harsh building line. In plan view the layout is not reflective of the character and layout of surrounding streets but some good design principles have been applied and the layout has resulted from the shape of the site. The proposed development would be relatively detached from the rest of Bodicote in terms of footpath and road links. However this is a result of the existing settlement pattern and the fact that the site is accessed off the main Oxford Road and there is only one opportunity for a footpath in the north western corner of the site. Despite some reservations about the layout this is not a reason to recommend refusal as the plans are indicative only.

5.5.5 The properties which share a boundary with the site enjoy an attractive open aspect, privacy and pleasant amenities as a consequence of adjoining open countryside. This would be significantly altered by the residential development of the site, although substantial landscaping and careful design and siting would help to mitigate the impact of the development upon neighbouring properties. The illustrative layout does show some landscaping and with the exception of 6 or 7

properties most existing properties have gardens 13m long or greater. In most cases the 2-storey elements of the proposed properties are set at least 11m off the boundary. This complies with the Council's informal space standards. However many of the proposed properties have either single storey elements or garages in the rear gardens which reduces the distance between built structures. Furthermore many of the adjoining properties are dormer bungalows which are generally smaller in scale in relation to the proposed 2 storey properties proposed on the application site. Nevertheless this is an outline application and whilst the objections of the neighbours are noted and understood the main consideration at this stage is the acceptability of the principle of the proposal. The effect on residential properties would need to be considered at the reserved matters stage, if outline consent were granted. This would require careful consideration to be given to house types, heights, proximity to boundaries and overlooking.

## 5.6 Highway Impact

5.6.1 It is clear that there are concerns about the adequacy of the access and that further work will be required by the applicants to demonstrate that there will be no harm to highway safety either for existing road users along the Oxford Road or the new residents pulling away from the access. The response from the Local Highway Authority was received some time after the end of the consultation period which has meant that the applicants have not had much time to respond to the matter. However some progress on this issue may be made prior to the Committee. However without the submission of further information and a subsequent favourable response from the LHA it is not possible to advise that there is no potential for harm to be caused to highway safety.

5.6.2 The indicative layout shows what is likely to be sufficient parking but there is concern that a lot of the spaces are within garages. However if this is a particular issue this can be addressed at reserved matters stage when it would be possible for garages to be replaced for car ports or open spaces.

## 5.7 Other Material Considerations

5.7.1 The proposed development would generate a need for infrastructure and other contributions, that need to be secured through a planning obligation, to enable the development to proceed. At the time of drafting the report a costs undertaking had not been received from the applicant's solicitors therefore drafting of the agreement has not commenced. However a development of this scale and nature would require contributions to the provision, improvement or maintenance of the following;

- Affordable housing
- Outdoor off site sports facilities
- Off site community facilities
- On site play space and public open space
- Surface water drainage systems
- Highways and public transport contributions (although the figures have not yet been provided by the County Council)
- Public art
- County Council Education contributions, including funding towards primary school transport
- County Council Library contributions
- County Council Day Centre for the Elderly contributions
- County Council waste recycling contributions

- County Council Museum Resource
- District Council refuse bin contributions
- District and County Council administration/monitoring fee

5.7.2 In 3.5 above the County Council states that the development is likely to result in unsustainable travel patterns as primary school students are likely to have to travel to schools outside of Bodicote. This would occur because the County Council indicate that Bishop Loveday School has insufficient capacity, and is not capable of further expansion. The above education contribution would therefore be used to expand capacity at the receiving schools. The County Council states that if the district is minded to permit the development contributions should be sought to improve transport infrastructure and primary school transport costs. The contribution towards primary school travel costs aims to provide money towards communal modes of transport, which is more sustainable than if students were to be transported individually by private car.

5.7.3 A request has been received from White Young Green (WYG), on behalf of Thames Valley Police (TVP), requesting the contributions be sought for improvements to Police operational and infrastructure requirements. WYG has stated that the development is of such a scale that it will impact on the demands made upon the services provided by TVP. However, there is no current local policy justification for such a request and therefore it would not be sought from the developers.

5.7.4 In terms of archaeological impact, the advice of Oxfordshire County Council Archaeologist is noted and in light of the publishing of the new PPS5 (Planning for the Historic Environment) further clarification was sought, which supports the requirement for a pre-determination field evaluation. This has been requested from the applicant but to date has not been provided. The view of the agent for the application is that 'the archaeological potential for the site is understood but it is not considered that the potential is great enough to warrant and investigation prior to the determination of the application, particularly when the details of the layout are yet to be agreed'. However without doing an evaluation the archaeological potential cannot be understood and given that development will take place on most of the site the fact that the layout is indicative is not relevant to overcoming the issue. Given that the principle of development on the site is unacceptable it seems unreasonable to hold up the determination of the application

## 5.8 Conclusion

5.8.1 The application is for development beyond the built up limits of Bodicote in the open countryside. As such the application is contrary to both the Adopted and Non Statutory local plan policies. However, given the current position on housing land supply which is below five years it is necessary to consider if it would be appropriate to release this site for development. This scheme provides 86 new dwellings, 35% of which are affordable, and attempts to demonstrate deliverability thus could potentially contribute to this housing land supply. However this application does not adequately address the tests set out in PPS3 (set out in the Head of Planning and Affordable Housing Policy section above), it is considered to cause harm to the open countryside and raises sustainability issues in relation to access to schools. Furthermore the submitted Transport Assessment does not sufficiently demonstrate that the proposal will not cause harm to highway safety

and there is insufficient information to assess the potential impact on archaeology. It is therefore recommended that this application be refused.

## **6. Recommendation**

### **Reasons for refusal;**

1. The proposal represents development beyond the built up limits of the settlement and will cause harm to the character and appearance of the countryside. Notwithstanding the Council's short term inability to demonstrate that it has the 5 year supply of housing land required by PPS 3 Housing, the development of this site cannot be justified on the basis of a temporary land supply deficiency alone, a development of this scale is inappropriate at this time given the existing lack of provision of village facilities and because of the landscape impact of the proposal. As such the proposed development is contrary to the saved policies H13, H18, C7 and C13 of the adopted Cherwell Local Plan, policy EN34 of the Non-Statutory Cherwell Local Plan, policy BE1 of the South east Plan and Planning Policy Statement 3 Housing.
2. The Transport Statement does not sufficiently demonstrate that the access to the A4260 is adequate to serve the development without causing harm to highway safety, contrary to guidance contained in PPG13.
3. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority cannot guarantee that the infrastructure directly required to service or serve the proposed development, including affordable housing, open space/play space, off-site playing pitches, education facilities, library facilities, and transport measures will be provided, which would be contrary to Policy CC7 of the South East Plan, Policies H5, TR1 and R12 of the adopted Cherwell Local Plan and Policies H7, TR4, R8, R9 and R10A of the Non-Statutory Cherwell Local Plan 2011.
4. In the absence of a satisfactory archaeological field evaluation, the Local Planning Authority is not convinced that the proposed development can be undertaken without resulting in the loss of archaeological deposits which would be contrary to Policy EN47 of the Non-Statutory Cherwell Local Plan 2011 and Policy BE6 of the South East Plan 2009 and guidance contained within PPS5.

**CONTACT OFFICER: Caroline Roche**

**TELEPHONE NO: 01295 221816**

## Planning Committee

15 July 2010

### Tree Preservation Order (No. 14) 2010 Oak Tree at 30 Spinney Drive, Banbury

#### Report of Head of Development Control and Major Developments

##### PURPOSE OF REPORT

To seek the confirmation of an unopposed Tree Preservation Order relating to an Oak Tree at 30 Spinney Drive, Banbury (copy plan attached as Annex 1) Tree Preservation Order No. (14/2010)

This report is public

##### Recommendations

The meeting is recommended:

- (1) To confirm the Order without modification

##### Background Information

- 2.1 The Scheme of Reference and Delegation authorises the Head of Development Control and Major Developments to make Tree Preservation Orders under the provisions of Section 201 of the Town and Country Planning Act 1990, subject to there being reason to believe that the tree in question is under imminent threat and that its retention is expedient in the interests of amenity. The power to confirm Tree Preservation Orders remains with the Planning Committee.
- 2.2 The above mentioned Tree Preservation Order was authorised by the Head of Development Control and Major Developments and made on 27 May 2010. The statutory objection period has now expired and no objections were received to the Order.

## **Key Issues for Consideration/Reasons for Decision and Options**

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3.1 None

### **Implications**

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**Financial:** The cost of processing the Order can be contained within existing estimates.

Comments checked by Eric Meadows, Service Accountant PH & E 01295 221552

**Risk Management:** The existence of a Tree Preservation Order does not remove the landowner's duty of care to ensure that such a tree is structurally sound and poses no danger to passers by and/or adjacent property. The TPO legislation does contain provisions relating to payment of compensation by the Local Planning Authority in certain circumstances, but these relate to refusal of applications to carry out works under the Order and no compensation is payable for loss or damage occurring before an application is made.

Comments checked by Rosemary Watts, Risk Management & Insurance Officer 01295 221566

### **Wards Affected**

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Banbury Calthorpe

### **Document Information**

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<b>Appendix No</b>	<b>Title</b>
Appendix 1	Plan
<b>Background Papers</b>	
NONE	
<b>Report Author</b>	Michael Sands, Trainee Democratic & Scrutiny Officer
<b>Contact Information</b>	01295 221554 michael.sands@Cherwell-dc.gov.uk



*P. Miller*

CDC 17934

# Agenda Item 12

## Planning Committee

**Enforcement and legal action relating to the failure to comply with the terms and conditions as set out within a S106 legal agreement dated 13 January 2006 requiring the provision of an area of play at land to the rear of 286-304 Broughton Road Banbury (known as Claypits Close)**

**15 July 2010**

### **Report of Head of Development Control and Major Developments**

#### **PURPOSE OF REPORT**

The purpose of this report is to bring to the attention of the Committee the continued failure of the developer to provide LAPs (Local Area for Play), as required by the Legal Agreement entered into by the applicants at the time of planning permission being granted, and to allow the Committee to consider the need to take formal action to require compliance.

This report is public

#### **Recommendations**

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The Planning Committee is recommended to

- (1) Resolves to authorise, subject to the Head of Legal and Democratic Services being satisfied as to the evidence, the application for legal proceedings by way of a court injunction to enforce the terms of the section 106 Agreement in respect of the non-compliance detailed above, such authorisation to include the instituting and continuing of the proceedings to final judgement and any enforcement of the judgement. The application for the injunction would seek to equip and landscape the LAP to be reasonable satisfaction of the District Council. The LAP must also be assessed and passed by RoSPA (Royal Society for the Prevention of Accidents).

## **Background Information**

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- 2.1. Planning permission was granted under application **05/00173/OUT** for a residential development, with vehicular access on 16 January 2006

That permission was the subject of a number of conditions and a legal agreement. This outline planning permission required the submission of reserved matters application for the development of the site.

- 2.2. The reserved matters application **06/00376/REM** sought the erection of 18 no dwellings with access road and was granted on 16 June 2006.

## **Key Issues for Consideration/Reasons for Decision and Options**

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- 3.1. The 18 detached dwellings have now been constructed and are all occupied. Whilst some play equipment has been installed together with landscaping it is without approval and is not fit for purpose.
- 3.2. The legal agreement requires that the LAP will not commence, until there has been submitted in writing and agreed with the District Council a scheme for the landscaping and equipping of the LAP which will include a timetable for carrying out the works and the planting. The LAP is required to be constructed as the same time as the adjacent dwellings.
- 3.3. The developer was made aware of the failure to comply with the terms of the legal agreement in letters and emails from the Major Development and Enforcement Section in January 2008. The letter dated 8 April 2010 it very clear that the continued failure to adhere to the terms of the agreement would leave the Council with no option other than to take appropriate legal action.
- 3.4. A difficulty that the Council has encountered with the provision of open space area is that developers give the completion and maintenance of public areas very low priority, particularly once they have finished selling houses in that area. The Council can be left chasing for many months and in some cases years to get areas satisfactorily completed and transferred into public ownership so the long term maintenance can be taken care of. These works are important not just to prevent areas becoming untidy but also to make sure that they are safe through regular inspection.
- 3.5. There is also a safety issue to consider with the lack of completion of this area. As it is not being monitored regularly and looked after, it is prone to damage and there could be a risk of children/people injuring themselves within this area.

The following options have been identified. The approach in the recommendations is believed to be the best way forward

**Option One** Do nothing

**Option Two** Take legal action as recommended

**Financial:** The costs of legal action can be met within existing budgetary provision.

Comments checked by Eric Meadows, Service Accountant PH & E 01295 221552

**Legal:** Failure to take enforcement action could bring the planning system into disrepute.

Comments checked by Nigel Bell, Solicitor, 01295 221687

**Risk Management:** Head of Legal and Democratic service will assess the quality of the evidence available before the commencement of any action

Comments checked by Rosemary Watts, Risk & Insurance Manager, 01295 221566

### **Wards Affected**

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Banbury Ruscote

### **Document Information**

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<b>Appendix No</b>	<b>Title</b>
Appendix	None
<b>Background Papers</b>	
Site plan Planning permissions 05/00173/OUT and 06/00376/REM Section 106 legal agreement	
<b>Report Author</b>	Bob Duxbury (Team Leader (DC & MD))
<b>Contact Information</b>	01295 221821 Bob.duxbury@Cherwell-dc.gov.uk

## Planning Committee

### **Variation of Legal Agreement tied to Planning Permission 01/00210/OUT at The Former Cattle Market, Merton Street, Banbury**

**15 July 2010**

### **Report of Head of Development Control and Major Developments**

#### **PURPOSE OF REPORT**

To seek authorisation to allow the legal agreement attached to the development at the former Cattle Market, Merton Street, Banbury to be varied to reduce the commuted payments for LAPs at the site.

This report is public

#### **Recommendations**

The Planning Committee is recommended:

- (1) To authorise the Head of Legal and Democratic Services to vary the S106 agreement to reduce the commuted sum payment for the provision of LAPs at the site.

#### **Executive Summary**

##### **Introduction**

- 1.1 This report seeks to vary the terms of the legal agreement attached to the residential development at the site that is currently nearing completion. The proposal seeks to reduce the requirement for commuted sums to be payable for Local Areas of Play (LAPs) at the site and for the saving to be directed towards re-directing an existing power line that crosses the playing fields at the site.

##### **Proposals**

- 1.2 The proposal seeks to allow a reduction of the commuted sums payable to the District Council to the sum of £30, 969.30. The saving would be

used by the developer to allow the power cable that crosses the proposed playing fields to be diverted around the fields.

## Conclusion

- 1.3 It is therefore requested that Members allow the variation of the legal agreement to include a reduction in the commuted payments towards the provision of LAPs at the site in order to allow the redirection of the power cable that currently crosses the proposed playing fields.

## Background Information

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- 2.1 **01/00953/F** - Engineering works Comprising: 1) the raising of land levels with part of the Cattle Market site to provide for future development without risk for flooding. 2) the excavation of material to provide compensating flood storage volume on land.
- 2.2 **04/02710/REM** - Reserved Matters (Outline 01/00210/OUT refers) Phase 1 Residential development and associated works for the development of 55 apartments and 21 houses in blocks 4 and 5. Total 76 units (as amended by plans and documents received in the Department on 10.03.05 and further modified by plans received in the Department on 24.06.05).
- 2.3 **05/00070/REM** - Reserved matters (Outline 01/00210/OUT refers) Phase 1 Residential development and associated works for the development of 12 dwellings and 21 apartments for blocks 1 and 2. Total 33 units.
- 2.4 **05/00244/F** - Sale centre on ground floor with 2 No. bedroom show room on first floor.
- 2.5 **05/00425/F** - Ground floor sales centre with 2 No. bedroom showroom on first floor.
- 2.6 **05/00768/REM** - Reserved matters (Outline 01/00210/OUT) Residential development for 13 No. dwelling units with associated parking and garaging.
- 2.7 **05/01082/F** - Removal of Condition 6 from Outline Planning Permission 01/00210/OUT (highway works to the junction of Middleton Road, Merton Street and The Causeway).
- 2.8 **05/01631/REM** - Reserved Matters Application (OUTLINE 01/00210/OUT refers) Residential development blocks 6, 7 and 8 for 78 No flats and 50 No dwellings (as amended by plans accompanying agent's letter received in the department on 28 September 2005, amended and amplified by plans accompanying agents letter received in the department on 3 November 2005 and additional site section plans received in the department on 14/12/05 and amended landscaping plans received 02/02/06 and further amended by plans accompanying architects letter received on the department on 23/02/06).
- 2.9 **/01364/REM** - Reserved Matters to Outline 01/00210/OUT - Community centre and changing rooms (as amended by plans received by the Council on 28.11.07).

2.10 **06/02443/REM** - Reserved Matters ref. 01/00210/OUT - Phase 2 residential development and associated works for the development of 107 no. dwellings.

### **Key Issues for Consideration/Reasons for Decision and Options**

- 3.1 Outline planning permission was granted in 2004 for a phased residential development at the site. As part of the permission the developer was required to provide a number of community facilities.
- 3.2 The facilities included a community centre, a Neighbourhood Equipped Area of Play (NEAP), two Local Equipped Areas of Play (LEAP) and a number of Local Areas of Play (LAPs). The NEAP and LEAPs have been provided and the community centre is ready to be transferred to the Council. However, there is a high voltage power line that crosses the playing fields that is considered a danger to users of the fields and is holding up the transfer.
- 3.3 The power line is in the ownership of E-On and they have agreed to redirect the line around the perimeter of the playing fields at a cost of approximately £30, 969.30.
- 3.4 The power line is not considered to be an issue by the developer and have queried the requirement to divert it as it was never raised as an issue when the location of the playing fields was considered. Our Landscape and Leisure Department have fears over the power line in relation to kite flying and sports.
- 3.5 As a result of our concerns the developer has agreed to have the power line diverted. However, the costs are prohibitive and should not be borne by the developer. Therefore, the developer has requested that the commuted payments for LAPs at the site be reduced and the monies directed to diverting the power line. LAPs will still be provided but the cost of the commuted sums when they are transferred to the Council would be reduced.
- 3.6 The legal agreement does not refer to a specific number of LAPs to be provided at the site. Rather it states that those LAPs that are provided, a commuted payment of £20, 100 for each LAP be paid to Council once the LAPs are transferred to the Council.
- 3.7 Works are on going at the site and a number of LAPs have already been provided. The landscaping scheme (which includes LAPs) is yet to be finalised. Therefore, the commuted sum would have to be discounted once the final landscaping scheme is agreed.
- 3.8 The following options have been identified. The approach in the recommendations is believed to be the best way forward

**Option One** Do nothing and allow the power cable to remain over the playing fields.

**Option Two** Fund the relocation of the power cable ourselves.

**Option Three** Reduce the commuted sums for the provision of LAPs at the site and direct the savings to the diversion of the power cable.

## Implications

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**Financial:** If the Section 106 Agreement is varied, this will result in the Council receiving a reduced Commuted Sum by £30,969  
 Comments checked by Eric Meadows, Service Accountant 01295 221552

**Legal:** Provided the legal agreement is varied to ensure that the cable is diverted there are no other legal implications  
 Comments checked by Nigel Bell, Solicitor, 01295 221687

**Risk Management:** If members decide not to agree to the power line to be moved, there is a potential for children/young adults to be injured/killed if they fly kites or similar in the area.  
 Comments checked by Rosemary Watts, Risk and Insurance Manager, 01295 221566

## Wards Affected

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Banbury: Grimsbury and Castle

## Document Information

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Appendix No	Title
None	None
<b>Background Papers</b>	
None	
<b>Report Author</b>	Graham Wyatt, Senior Planning Officer
<b>Contact Information</b>	01295 221811 graham.wyatt@Cherwell-dc.gov.uk

## Planning Committee

### Decisions Subject to Various Requirements – Progress Report

15 July 2010

#### Report of Head of Development Control and Major Developments

##### PURPOSE OF REPORT

This report aims to keep members informed upon applications which they have authorised decisions upon to various requirements which must be complied with prior to the issue of decisions.

An update on any changes since the preparation of the report will be given at the meeting.

This report is public

#### Recommendations

The Planning Committee is recommended:

- (1) To accept the position statement.

#### Details

**The following applications remain outstanding for the reasons stated:**

Subject to Legal Agreement with Cherwell District Council

1.1 01/00662/OUT Begbroke Business and Science Park, Sandy Lane, Yarnton

Subject to legal agreement re:off-site highway works, green travel plan, and control over occupancy now under discussion. Revised access arrangements refused October 2008. Appeal dismissed. New application for access to be submitted October/November 2009 – overdue.

Applicants have indicated in a letter dated 28<sup>th</sup> May 2010 that design work on a new route is now being undertaken with a view to discussing the new plans in the near future and an application in the autumn.

1.2 07/01106/OUT Land to South East of A41 Oxford Road, Bicester  
 Subject to departure procedures and legal agreements with Oxfordshire County Council re:off-site transportation contributions and HGV routing during construction. Redrafted agreement with other side.

1.3 08/01171/OUT Pow Wow Water Site, Langford Lane, Kidlington  
 Subject to agreement re transport infrastructure payments.

1.4 09/01687/F Bicester Town Centre development, Manorsfield Rd. Bicester  
 Subject to legal agreement with OCC and CDC re highway infrastructure and transport contributions, car parking , CCTV, public art, temporary arrangements for Pop-in Centre, Shopmobility and public toilets, routeing agreement etc.  
 Supplementary agreement currently circulating for signatures

1.5 09/01776/F Orchard Way shopping parade, Banbury  
 Subject to negotiations re legal agreement with OCC and CDC re affordable housing, a range of County requirements, public art, bins, landscape maintenance, open space/sports provision, and CCTV contribution

1.6 09/01811/F OS parcel 1319, South of Paddington Cottage, Milton Rd. Bloxham  
 Subject to legal agreement re affordable housing and on-site and off-site infrastructure

1.7 10/00106/F Bryan House, Chapel Street, Bicester  
 Subject to legal agreement re LAP, offsite infrastructure and to removal of Environment Agency objection

1.8 10/00131/F Yarnton House, Rutten Lane, Yarnton  
 Subject to modification of previous Section 106

		agreement
1.9	10/00134/F	Phase 2 Apollo Business Park, Ironstone Lane, Wroxton  Subject to legal obligation re offsite transportation contribution or receipt thereof.
1.10	10/00385/F	Land adj. Publishing House, Telford Rd. Bicester  Subject to legal agreement concerning off-site transportation contribution
1.11	10/00388/OUT	Land adj 35 Crouch Hill Road, Banbury  Subject to amendment of existing legal agreement concerning affordable housing and on-site and off-site infrastructure contributions.

#### Subject to Other Matters

1.12	08/00709/F	Former Lear Site, Bessemer Close, Bicester  Subject to local agreement with Oxfordshire County Council
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#### Implications

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<b>Financial:</b>	There are no additional financial implications arising for the Council from this report.  Comments checked by Eric Meadows, Service Accountant 01295 221556
<b>Legal:</b>	There are no additional legal implications arising for the Council from this report.  Comments checked by Pam Wilkinson, Principal Solicitor 01295 221688
<b>Risk Management:</b>	This is a monitoring report where no additional action is proposed. As such there are no risks arising from accepting the recommendation.  Comments checked by Rosemary Watts, Risk and Insurance Manager 01295 221560

#### Wards Affected

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All

## Document Information

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Appendix No	Title
-	None
<b>Background Papers</b>	
All papers attached to the planning applications files referred to in this report	
<b>Report Author</b>	Bob Duxbury, Development Control Team Leader
<b>Contact Information</b>	01295 221821 bob.duxbury@Cherwell-dc.gov.uk

## Planning Committee

### Appeals Progress Report

15 July 2010

### Report of Head of Development Control and Major Developments

#### PURPOSE OF REPORT

This report aims to keep members informed upon applications which have been determined by the Council, where new appeals have been lodged. Public Inquiries/hearings scheduled or appeal results achieved.

This report is public

#### Recommendations

The Planning Committee is recommended:

- (1) To accept the position statement.

#### Details

##### New Appeals

- 1.1 **10/00603/LB – 8 Calthorpe Road, Banbury** - appeal by Mr T W Beckett against the refusal of listed building consent for the conversion and extension to provide 4 no. one bedroom flats, rebuilding of garages- Written Reps
- 1.2 **09/01784/F – 1 South Green, Kirtlington** – appeal by Dan Hessler against the refusal of planning permission for the formation of additional hard standing (retrospective) – Written Reps

1.3 **09/01363/F – 14 Main Street, Mixbury** – appeal by Mr R Russell against the refusal of planning permission for the removal of porch and rear single storey extension. Construction of two storey side extension with internal alterations, formation of new vehicular access – Householder appeal

1.4 **10/00165/F – 22 Milton Street, Banbury** – appeal by Mr Andrew Thorburn against the refusal of planning permission for a rear extension – Written Reps

### **Forthcoming Public Inquiries and Hearings between 15 July 2010 and 12 August 2010**

2.1 Inquiry starting at 10.00 on Thursday 5 August 2010 in the Ray Room, ground floor, Bodicote House, Bodicote to consider the appeal by Nicholas Rourke and Caroline Watsham against the service of an enforcement notice alleging a breach of planning control – without planning permission, the excavation of part of the land to create a sunken vehicle storage area, the use of the land for vehicle storage, repairs and maintenance. The introduction of domestic paraphernalia on the land resulting in an unauthorised change of use at land to the east of Claydon Road, Cropredy.

### **Results**

#### **Inspectors appointed by the Secretary of State have:**

3.1 **Allowed the appeal by Mr John Gardner against the refusal of application 09/00371/F for a three car garage with office in roof space at Old Bartons, High Street, Shutford (Committee)** – The Inspector considered that the appeal proposal would not unduly affect the privacy of occupants of Monastery Lodge. The other property potentially affected, Pemberley, lies too far to the east for the building to have any material impact. The Inspector went on to conclude that the appeal proposal would not unduly affect living conditions in neighbouring property in terms of noise, disturbance, outlook or privacy and that it would comply with saved policy C31 of the 1996 Cherwell Local Plan.

An application for costs was made by Mr Gardner against the Council, the costs application was dismissed by the Inspector.

## **Implications**

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**Financial:** The cost of defending appeals can normally be met from within existing budgets. Where this is not possible a separate report is made to the Executive to consider the need for a supplementary estimate.

Comments checked by Eric Meadows, Service Accountant 01295 221552

**Legal:** There are no additional legal implications arising for the Council from accepting this recommendation as this is a monitoring report.

Comments checked by Pam Wilkinson, Principal Solicitor 01295 221688

**Risk Management:** This is a monitoring report where no additional action is proposed. As such there are no risks arising from accepting the recommendation.

Comments checked by Rosemary Watts, Risk and Insurance Manager 01295 221566

## **Wards Affected**

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All

## **Document Information**

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<b>Appendix No</b>	<b>Title</b>
-	None
<b>Background Papers</b>	
All papers attached to the planning applications files referred to in this report	
<b>Report Author</b>	Bob Duxbury, Development Control Team Leader
<b>Contact Information</b>	01295 221821 bob.duxbury@Cherwell-dc.gov.uk