

<b>Application</b> 11/01755/OUT	<b>No:</b>	<b>Ward:</b> Hook Norton	<b>Date Valid:</b> 23.11.2011
<b>Applicant:</b>	Taylor Wimpey UK Ltd		
<b>Site Address:</b>	Land North of The Bourne and Adjoining Bourne Lane, Hook Norton		

**Proposal:** Outline planning permission with all matters reserved for the erection of up to 70 dwellings (Class C3), public open space including a play area/amenity space and a balancing pond, associated earthworks to facilitate surface water drainage, landscaping, car parking, a pumping station and other ancillary works

## 1. Site Description and Proposal

- 1.1 This is an outline application for a single development comprising of up to 70 dwellings with associated public open space, earthworks required for drainage, landscaping, parking areas and other ancillary works.
- 1.2 The site is a 3.28 hectare field on the north of the village on the western side of Bourne Lane and to the north of the housing and sports club accessed from The Bourne. It is largely open with hedgerow boundaries and a number of small trees. The Northern tip of the site is crossed by public footpaths.
- 1.3 The site is within the locally designated Area of High Landscape Value, which washes over the whole of Hook Norton and much of this area of the District. The site is not within a designated Conservation Area and does not contain or abut any Listed Buildings.
- 1.4 The application seeks permission for up to 70 units, of which 30% are to be affordable housing. If the site were developed to the maximum of 70 dwellings, this would provide 21 affordable houses.
- 1.5 The application is in outline only and all matters are reserved to be considered in a Reserved Matters application in the event of the proposal being approved. Although the application is in outline an indicative site plan has been submitted along with a Planning Statement (including a Statement of Community Involvement Programme), a Design & Access Statement, Transport Statement, Flood Risk Assessment and Drainage Report, Phase 1 Ecological Appraisal, Archaeological Desktop Survey, Tree Survey/Arboricultural Report, Landscape and Visual Appraisal and a Land Contamination Report.

## 2. Application Publicity

- 2.1 The application has been advertised by way of site notices and press notice. The final date for comment based on the 21 day period was 29 December 2011.
- 2.2 To date 341 comments have been submitted in relation to the application. Of these 316 object to the scheme, 16 offered only comments (with no particular for or against slant) and 7 were in support of the scheme.

- 2.3 Material planning considerations include;  
 Highway safety/convenience impact  
 Impact of the development on the school  
 Infrastructure (water, electricity, sewage, broadband, village facilities (inc. doctors)  
 Harm to the character of the village/turning the village into a town  
 Harm to the Cotswold character of the village  
 Harm to the landscape  
 Concerns over the scale of the development relative to the village  
 Ecology impacts  
 Flooding/drainage matters  
 Impact on trees  
 Prematurity and lack of need  
 Not in line with the Localism Act  
 Contrary to planning policies  
 Impact on the built Conservation of the village  
 Un-sustainability  
 Lack of employment in the village  
 Impact on the public rights of way  
 Outside built up limits of village on green field site  
 Loss of prime agricultural land  
 The 'Stanton' site is a better alternative  
 The developers have failed to engage with the community prior to making the application
- 2.4 The impact of the proposal on highways, the school and infrastructure was raised by in excess of 70% of the objectors. The location, scale, impact on character, loss of Greenfield and extension to the village were also significant issues.
- 2.5 Non-Planning issues;  
 The development is motivated only by profit
- 2.6 The comments in support of the application welcomed the provision of affordable housing for the village and acknowledged the need for new development for the village to grow.

### 3. Consultations

- 3.1 **Hook Norton Parish Council:** objected to the proposal on the following grounds:  
 Expansion of the village on the scale proposed would have an adverse impact on the village because of the impact on the school, infrastructure, flooding, transport and wildlife impacts  
 No attempt been made to enter discussions with the Parish Council; only a public exhibition after the application was submitted  
 The Council (Cherwell) does not have a housing land shortfall as set out in the application  
 Development in Hook Norton adds the greatest load to the transport infrastructure  
 The application is contrary to national and local policy  
 The site has been repeatedly rejected for development previously  
 The application site is outside the village envelope  
 There are other, more appropriate sites in the village
- 3.2 **Environment Agency:** raises no objections to the proposal subject to conditions being imposed in the event of the application being approved. They have noted

that a Waste Management Plan is required and that the local sewage treatment plant is nearing its design capacity, but that this is an issue for the sewage undertaker to address.

- 3.3 **Thames Water:** has identified an inability of the existing waste- and drinking-water infrastructure to accommodate the needs of the proposal. However in the event of an approval conditions can be imposed to overcome this concern.
- 3.4 **Oxfordshire County Council (Highways):** No objection on highway safety grounds, but raises concerns over the sustainability of the proposal in transport terms and the reliance on the private car. Notes that trips rates quoted were unrealistically low; however, when more robust figures are considered there is negligible impact in terms of highway capacity. Considers that subject to an appropriate S106 agreement including transport and schools provision, a refusal, on transport grounds could not be sustained at appeal.
- 3.5 **Oxfordshire County Council (Education):** If the development were to proceed then it is likely that additional primary school accommodation would be required; either through an extension to the school or by transporting pupils to alternative local schools. The cost of either of these solutions would need to be met with contributions from the developer. There is no requirement for increased secondary school capacity in the area. The County Council no longer objects to this scheme on the basis of upsetting the balance of schooling in Hook Norton.
- 3.6 **Oxfordshire County Council (Developer Funding Officer):** There is a shortfall in off-site off-street service infrastructure which needs to be addressed before any proposal is approved and the primary school is currently over capacity. Developer contributions would be required for school infrastructure, library infrastructure and stock, day care, waste recycling, adult learning, museum resources and school transport.
- 3.7 **Oxfordshire County Council (Archaeologist):** The site is an area of archaeological interest and there are some records nearby. As the site is largely undisturbed any remains would have the potential to be well preserved. Requests pre-commencement negative conditions.
- 3.8 **Oxfordshire County Council (Countryside Services):** The scheme will not have a direct impact on public rights of way; offers comments on the required rights of way infrastructure.
- 3.9 **Oxfordshire County Council (Drainage):** No objections, notes that any final design should be SUDS compliant.
- 3.10 **Thames Valley Police:** No objections; would encourage the use of 'Secured by Design' principles if approved. Concerned about the potential lack of natural surveillance of public open space and would like to see active windows from routinely occupied rooms overlooking that area to reduce the opportunity for crime and disorder.
- 3.11 **Head of Strategic Planning and the Economy (Planning Policy):**

Housing Land Supply: The position reported in the 2011 Annual Monitoring Report was that the district had a supply of 2.9 years for the period 2012-2017. Evidence

presented by the Council (and agreed by the appellants) at a recent public inquiry in April 2012 was that supply had increased to 3.1 years as a result of two recent planning decisions – for Cotefield Farm, Bodicote and for Yew Tree Farm, Launton. (The Head of Strategic Planning and the Economy has since commented on other applications on this agenda and noted that an allowance for windfalls (as now allowed by the NPPF where there is compelling evidence) would not be sufficient to return the district to a 5 year supply. He has also noted that the NPPF requires an additional buffer of 5% on top of 5 year supply requirements or 20% where there has been a record of persistent under delivery).

In light of the tests in the National Planning Policy Framework, the current policy position, the modest level of new housing developed in the village in recent years, the relationship of the application site to the village, the Planning Policy Officer does not wish to raise a policy objection subject to all detailed matters being satisfactory.

- 3.12 **Head of Public Protection and Development Management** (Anti Social Behaviour Officer): Notes that the impacts from the floodlighting and use of the Sports & Social Club have not been addressed in the application.
- 3.13 **Head of Safer Communities, Urban and Rural Services** (Landscape): No objections to the scheme in terms of landscape and visual impact, and considers the site to be well screened by the topography and existing boundary screening.
- 3.14 **Head of Safer Communities, Urban and Rural Services** (Ecology): No objection; the site is of very low ecological value, and that the layout is likely to be sympathetic to the current intention of the planning system to provide for a 'net-gain' in biodiversity terms.
- 3.15 **Head of Regeneration and Housing** (Housing): Notes that there is a need in Hook Norton for affordable housing, with a local connection. Without prejudice to this application, they also note that development of this site may allow access to an area of Council owned land to the South.
- 3.16 **Hook Norton Low Carbon**: Object on the grounds of the impact of the development on the school, highways and infrastructure. Also claim that the housing mix, site and scale are inappropriate.
- 3.17 **Campaign for the Protection of Rural England**: Objects to the scheme; notes the similarities between this site and that at Milton Road, Adderbury. Considers that the scheme causes harm to the character and appearance of the countryside and that there is likely to be a highways safety impact.

#### **4. Policy Considerations**

**National Planning Policy Framework (NPPF)** Core planning principles and the delivery of sustainable development with particular regard to the following sections:  
1: Delivering sustainable development  
3: Supporting a prosperous rural economy  
4: Promoting sustainable transport  
6: Delivering a wide choice of high quality homes  
7: Requiring good design  
8: Promoting healthy communities

10: Meeting the challenge of climate change, flooding and coastal change

11: Conserving and enhancing the natural environment

12: Conserving and enhancing the historic environment

**South East Plan 2009**

CC1: Sustainable Development

CC4: Sustainable Design and Construction

CC6: Sustainable Communities & Character of the Environment

CC7: Infrastructure and Implementation

H1: Regional Housing Provision 2006 - 2026

H2: Managing the Delivery of the Regional Housing Provision

H3: Affordable Housing

H4: Type and Size of New Housing

H5: Housing Design and Density

T1: Manage and Invest

T4: Parking

NRM1: Sustainable Water Resources & Groundwater Quality

NRM2: Water Quality

NRM4: Sustainable Flood Risk Management

NRM5: Conservation and Improvement of Biodiversity

C4: Landscape and Countryside Management

BE1: Management for an Urban Renaissance

BE5: Village Management

BE6: Management of the Historic Environment

S1: Supporting Healthy Communities

CO1: Core Strategy

CO3: Scale and Distribution of Housing

**Adopted Cherwell  
Local Plan 1996  
Saved Policies**

H5: Affordable Housing

H6: Housing needs within or adjacent to rural settlements

H12: New Housing in Rural Areas

H13: Housing within Category I Settlements

H18: New Dwellings in the Countryside

C7: Landscape conservation

C8: Sporadic development in the open countryside

C13: Areas of High Landscape Value

C27: Development in villages to respect historic settlement pattern

C28: Design, layout etc standards

C30: Design control

TR1: Transportation Funding

**Cherwell Local Plan –  
Proposed submission  
draft May 2012**

BSC1: District Wide Housing Distribution

BSC2: The Effective and Efficient Use of Land

BSC3: Affordable Housing

BSC4: Housing Mix  
BSC7: Meeting Educational Needs  
BSC10: Open Space, Outdoor Sport and Recreation Provision  
BSC11: Local Standards of Provision – Outdoor Recreation  
BSC12: Indoor Sport, Recreation and Community Facilities

ESD1: Mitigating and Adapting to Climate Change  
ESD6: Sustainable Flood Risk Management  
ESD7: Sustainable Drainage Systems  
ESD10: Protection and Enhancement of Biodiversity and the Natural Environment  
ESD13: Local Landscape Protection and Enhancement  
ESD16: The Character of the Built Environment

Policy for Villages 1: Village Categorisation  
Policy for Villages 2: Distributing Growth Across Rural Areas

## 5. Appraisal

5.1 The key issues for consideration in this application are:

Policy Context  
Housing Need  
Ecology and biodiversity  
Suitability of the site  
Landscape impact  
Impact of the proposal on the character and heritage of the village  
Flooding  
Access and highway safety  
Education

### 5.2 **Policy Context**

5.2.1 This application must be determined in line with the development plan unless material considerations indicate otherwise. This position is embedded in the Planning Act as well as the Planning and Compulsory Purchase Act, and this starting point for the determination of planning applications is not affected by the publication of the National Planning Policy Framework.

5.2.2 The policy context to this proposal is therefore made up of the documents comprising the development plan. It is then necessary to consider if there are other material considerations which are material to the determination of the proposal.

5.2.3 Turning first to the development plan, the South East Plan 2009 is the regional spatial strategy for the South East region. Despite the commitment of the government to abolish this tier of planning policy, it remains a part of the development plan. Whilst this plan clearly contains no site-specific policies, it does set out the regional spatial planning framework for the region with policies for the scale and distribution of new housing, priorities for new infrastructure and economic development, a strategy for protecting countryside, biodiversity and the built and historic environment and for tackling climate change.

5.2.4 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.

5.2.5

Policy H12 of the adopted Local Plan states that new housing in the rural areas of the district will be permitted within existing settlements in accordance with policies H13, H14 and H15 and schemes that meet a specific and identified local housing need will be permitted in accordance with policies H5 and H6.

5.2.6

Policy H13 of the adopted Local Plan states that new residential development within Category 1 settlements, such as Hook Norton, 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.

5.2.7

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.

5.2.8

The site lies beyond the existing built limits of Hook Norton in an area of currently undeveloped agricultural land. The built up limits of the village in this case are likely to be defined as the frontage of the dwellings along Bourne Lane, and the rear of the development along The Bourne and the Sports and Social Club.

5.2.9

The proposal is not infilling, nor within the built up area of the settlement and not required for agricultural purposes, the development is therefore contrary to Policies H12, H13 and H18 of the adopted Cherwell Local Plan.

5.2.10

The adopted Local Plan also includes policies for landscape conservation (Policies C7 and C13), which state that development will not normally be permitted if it would cause demonstrable harm to the topography and character of the landscape; and which seek to conserve the character of the locally designated Area of High Landscape Value.

5.2.11

Policy C27 of the adopted Local Plan states that development in villages will be expected to respect their historic development pattern.

5.2.12

In May 2012, the Council approved for consultation the proposed submission draft of the Cherwell Local Plan subject to minor changes. This document replaces the earlier Draft Core Strategy and represents the likely 'direction of travel' for planning policy in the district up to 2031. The Plan sets out the long term spatial vision for Cherwell and contains policies to help deliver that vision. The Plan is built around three main themes; securing economic development, building communities and ensuring that development is sustainable.

5.2.13

With regard to housing supply and delivery, the plan sets out the need to control and manage housing growth, directing supply to the urban areas (Banbury and Bicester) whilst also recognising the need for housing in the larger and more sustainable villages. To this end, the Plan categorises villages according to their size and appropriateness for new housing development. This village categorisation approach is consistent with the current adopted Local Plan and the previous non-statutory Local Plan and draft Core Strategy.

5.2.14

Whilst this Plan is of limited weight (as it has yet to be consulted upon or examined), it does indicate the 'direction of travel' for planning policy, and

specifically housing and growth policies for the district. It is important to stress that this plan does not carry the weight of the adopted Local Plan.

- 5.2.15 With specific regard to Hook Norton, the Proposed Submission Local Plan identifies Hook Norton as a Category A village. In accordance with the approach adopted in previous policy documents, villages have been categorised based on criteria including population size, the number and range of services and facilities in the village, any known issues in a village, accessibility in terms of public/private transport and local employment opportunities.
- 5.2.16 The Proposed Submission Plan also identifies Hook Norton as part of the group of villages which will provide up to 189 homes over the plan period from 2011 to 2031. This equates to an average of about 38 homes per village (taking the Sibfords together). The Plan states that the precise number of homes to be allocated to an individual village, and the allocation of sites, will be set out in a Local Neighbourhoods Development Plan Document which will take account of levels of house building that have already taken place in each village to avoid over development. However, ahead of this further consideration, the Plan anticipates that within each group of villages the total number of homes will be divided broadly equally. (The number of homes proposed in this application exceeds that which may be envisaged by dividing the requirement equally between villages. Hook Norton Parish had 37 recorded housing completions from 2001-2011).
- 5.2.17 Whilst leaving specific site allocations to a future a Local Neighbourhood Development Plan Document the Proposed Submission Local Plan also includes policies relating to density and affordable housing provision required of new housing development (minimum of 30 dwellings per hectare and 35% respectively). Although the proposal accords with the density requirements of this policy, it does not meet the newly proposed 35% affordable housing target. However, it should be borne in mind that the Proposed Submission Plan is of limited weight, and the 30% level of affordable housing does accord with the currently adopted standards. It is not therefore considered that refusal on these grounds would currently be sustainable.
- 5.2.18 On 6 December 2011, the 2011 Annual Monitoring Report (AMR) was approved by the Council's Executive. The AMR included a comprehensive review of housing land supply which concluded that the district had a 2.9 year supply for the period 2012-2017. This equates to significant shortfalls of 1560 dwellings. The AMR concluded that supply in the Banbury and North Cherwell area (Cherwell's part of the 'Rest of Oxfordshire') was 1.7 years for both 2011-16 and 2012-17. However, it should be noted that supply in the Banbury and North Cherwell area is on track (1749 completions at 31/3/11 compared to a South East Plan requirement of 1750). In evidence to the recent Adderbury appeal Inquiry the land supply position was reported as having increased to 3.1 years. As advised, by the Head of Strategic Planning and the Economy, a windfall allowance would not be sufficient to return the district to a five year supply, leaving aside the NPPF's additional 5 or 20% requirements.
- 5.2.19 Questions have been raised during the consultation period over the appropriateness of the Councils' land supply calculations. It has been suggested by many contributors to the application, and indeed the local Member of Parliament that consented schemes should be included in the housing land supply figures, and that there should be no element of assessment of deliverability, as



contributors considered it unfair to penalise residents and Councils for the failure of the house building industry to deliver consented schemes. Criticism of the method of housing land supply calculation has found expression in the National Planning Policy Framework (footnote 11 in reference to paragraph 47),

- 5.2.20 Members of the public have also queried the relationship between ‘in-year’ approvals and consents on the five-year supply figures, citing recent news articles about the RAF Upper Heyford redevelopment and the recent masterplan approval for the Bankside site in Bodicote/Banbury. Due to the significant level of work and complexity of updating the housing land supply, and the ever-changing political and economic context to housing delivery, the deliverability of large sites is instead thoroughly reassessed on a consistent basis at one fixed point in the year.
- 5.2.21 The application was deferred from the June Committee meeting in part to take legal advice on this issue. The advice received supports the Council’s approach of assessing the deliverability of individual sites to determine the number of dwellings that can reasonably be expected to be built within the next five years.
- 5.2.22 This Council considers that the district’s housing land supply position remains the same as set out in the Annual Monitoring Report and updated at the Adderbury inquiry in April. A new housing trajectory is included in the proposed submission draft of the Cherwell Local Plan and a review of housing supply will be presented to the Council’s Executive in due course as new sites become deliverable.
- 5.2.23 The National Planning Policy Framework, published in March 2012 is the much-publicised replacement for the suite of government guidance expressed through the PPG and PPS documents. Broadly speaking, the National Planning Policy Framework sets out the government’s planning policies for England and how these are expected to be applied; it provides a framework within which councils can produce their own distinctive local and neighbourhood plans.
- 5.2.24 The National Planning Policy Framework does not replace the development plan, but is a material consideration in decision making.
- 5.2.25 The National Planning Policy Framework has at its heart a presumption in favour of sustainable development which is intended as a “*golden thread*” running through the decision taking process. The Framework expressly notes that for decision taking, this presumption means that where the development plan is absent, silent or out-of-date, permission should be granted unless “*any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole*”.
- 5.2.26 Whilst PPS3 was replaced by the National Planning Policy Framework, the requirement to demonstrate a five-year housing land supply was restated, with an additional 5% buffer or 20% where there is a record of persistent under-delivery.
- 5.2.27 Crucially for this case the National Planning Policy Framework states that “*Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites*” (paragraph 49).
- 5.2.28 The National Planning Policy Framework is clearly established as a material

consideration, and it explicitly sets out that Policy H13 of the adopted Cherwell Local Plan is out of date. As set out above, where this is the case, the proposal must be approved unless any impacts would outweigh the benefits.

5.2.29 Following the deferral of this application from the meeting in June, Officers have sought the advice of Counsel on the implications of footnote 11 to paragraph 47 of the National Planning Policy Framework. The key issue was whether or not this footnote (which reads “To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans”) would allow a local planning authority to take into account all dwellings on sites with planning permission when calculating their five-year land-supply, rather than just those dwellings likely to be delivered within the next five years. Were this to be the case, then the land-supply position in the District is likely to be significantly different to the current 3.1 years.

5.2.30 However, the legal advice received suggests that the approach taken in the AMR, in the evidence given to the Adderbury inquiry, and in the response to this application is the correct one. Assessments must be undertaken to determine whether a site is deliverable and to determine the number of homes that can reasonably be expected to be provided within the 5 year period. A site cannot be included in the housing land-supply figures solely on the basis of permission being granted; there must be a reasonable expectation of delivery within the plan period, and the viability and deliverability of the scheme must therefore be taken into account.

5.2.31 As a result, the housing land-supply position of the district remains less than five years.

### 5.3 **Housing Need**

5.3.1 Hook Norton has been identified as one of the District’s more sustainable villages capable of accommodating some limited further housing development. It continues to be identified as one of the more sustainable villages in the Proposed Submission Local Plan. However development of a site such as this, in the open countryside, would usually only be permitted if it were allocated as part of an adopted district plan and if it did not give rise to harm. The extant Local Plan and the Proposed Submission Plan recognises that the District’s strategy of extending the existing urban areas, as the most sustainable locations for more development, is the most sustainable approach, but both acknowledge the need for limited development in rural areas, and as set out above, the PSLP (and previously, the non-statutory Local Plan and the draft Core Strategy) identifies Hook Norton as a location for further rural housing growth.

5.3.2 The Head of Regeneration and Housing has noted that there is a need for affordable housing in Hook Norton, identified through the Housing Register. The Housing Team, in association with the Oxfordshire Rural Community Council has also carried out a Housing Needs Survey for the village, which identifies a clear need for affordable housing within the village, as well as support for a development which would enable such provision.

5.3.3 Policy BSC4 of the 2012 Proposed Submission Local Plan proposes a housing mix weighted as follows; 2 bed – 19%, 3 bed – 64%, 4-bed 15%, 5-bed 2%. This proposal includes an indicative housing mix in the Design & Access Statement which has a more even weighting (2-bed 23%, 3-bed 33%, 4/5-bed 44%). The proposed housing mix has been arrived at through an estimate for demand in the village and research carried out by the applicant. The mix proposed is however indicative, and the applicant has suggested they may be willing to review the mix in order to better match the draft policy. They do however consider that the proposed mix in BSC4 is unduly weighted towards 3 bed houses and that this is likely to be in dispute in any forthcoming Local Plan examination.

#### 5.4 **Ecology and biodiversity**

5.4.1 Section 11 of the NPPF – Conserving and enhancing the natural environment requires that “the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures” (para 109)

5.4.2 Paragraphs 192 and 193 further add that “The right information is crucial to good decision-taking, particularly where formal assessments are required (such as Habitats Regulations Assessment) and that Local Planning Authorities should publish a list of their information requirements for applications, which should be proportionate to the nature and scale of development proposals. Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question”. One of these requirements is the submission of appropriate protected species surveys which shall be undertaken prior to determination of a planning application. The presence of a protected species is a material consideration when a planning authority is considering a development proposal. It is essential that the presence or otherwise of a protected species, and the extent to that they may be affected by the proposed development is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. This is a requirement under Policy EN23 of the Non-Statutory Cherwell Local Plan 2011.

5.4.3 Paragraph 18 states that “*When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles: if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.*”

5.4.4 Paragraph 98 of Circular 06/05: Biodiversity and Geological Conservation – statutory obligations and their impact within the planning system states that, “local planning authorities should consult Natural England before granting planning permission” and paragraph 99 goes onto advise that “it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.”

- 5.4.5 Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC 2006) states that “every public authority must in exercising its functions, must have regard ... to the purpose of conserving (including restoring / enhancing) biodiversity” and; “Local planning authorities must also have regards to the requirements of the EC Habitats Directive when determining a planning application where European Protected Species (EPS) are affected, as prescribed in Regulation 9(5) of Conservation Regulations 2010, which states that “a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions”.
- 5.4.6 Articles 12 and 16 of the EC Habitats Directive are aimed at the establishment and implementation of a strict protection regime for animal species listed in Annex IV(a) of the Habitats Directive within the whole territory of Member States to prohibit the deterioration or destruction of their breeding sites or resting places.
- 5.4.7 The applicants have carried out Phase 1 ecological survey which concludes that the site is not within or adjacent to any wildlife site and that significant impacts to such sites are not anticipated. The report also notes that the site is primarily improved grassland which is not of significant ecological value.
- 5.4.8 The Council’s Ecologist has confirmed, following her own site visit, that the site is of no particular ecological value and that the current indicative layout is sympathetic to the biodiversity gain required by the National Planning Policy Framework.
- 5.5 **Suitability of the site**
- 5.5.1 As set out above, the site is considered to be outside of the current built up limits of the village. However, as the current policy position lessens the weight of this as a consideration, it is important to objectively assess the site.
- 5.5.2 As set out in the application documents, the site is not within or adjacent to any designated wildlife sites, does not contain any recorded protected species and is not in a flood zone. Furthermore, the site is not within the designated Conservation Area, nor does it contain, or is it adjacent to any Listed Buildings. The site lies opposite and to the rear of existing, relatively recent residential development. Although the site is within a locally designated landscape (the Area of High Landscape Value), it is not within a nationally designated landscape.
- 5.5.3 The site is contained within established hedging to the boundaries and as such, views into and across it are limited. Notwithstanding that, there are of course views into the site from the public right of way to the North-East. These views are not considered likely to be harmful.
- 5.5.4 With regard to the neighbouring properties and the adjacent Sports and Social club, it is considered that the site is suitably distant from, and appropriately screened from the surrounding residential properties and adjacent Sports and Social club so as not to cause any unacceptable harm to the amenity of surrounding or future residents by way of loss of light, loss of privacy, overshadowing or excessive noise/light disturbance. The concerns of the Anti-Social Behaviour Officer with regard to the Sports and Social Club are noted, but the applicant considers that the location of the drainage attenuation pond in the

area of the site closest to the Club, and the boundary screening proposed, coupled with the intervening distance will mitigate any harmful impact.

5.5.5 The site has been variously promoted as a site for inclusion in the development plan process, most recently it was promoted by the developer in the 2006 *Issues and Options* paper pursuant to the Local Development Framework process. Hook Norton has been identified as a location for housing growth in the draft plan making process. The Proposed Submission Local Plan provides for 189 dwellings in the plan period across a group of dwellings including Hook Norton (as well as Cropredy, the Sibfords, Fritwell and Steeple Aston). The identification of Hook Norton as a location for future growth must of course be balanced against the results of the 2009 CRAITLUS (Cherwell Rural Areas Integrated Land Use Study) research, which was commissioned to consider the transport impact of future development proposals. This report concluded that although Hook Norton was identified as a location for growth generally, it was the exception to the rule that the most sustainable villages in terms of housing growth (i.e. those with facilities) are the best in terms of highway network impact. Importantly though, the CRAITLUS report did acknowledge the prevalence of facilities (shop, post office, doctor, school) in Hook Norton which would serve to reduce the need to otherwise travel to access such services. The report also notes that villages such as Hook Norton should not be discounted for development solely as a result of their transport limitation and highway network impacts. Other villages in the same 'housing group' as Hook Norton in the Proposed Submission Local Plan also do not perform markedly better than Hook Norton.

5.5.6 This view is consistent with that taken in the allocation of Hook Norton as a location for growth in the Proposed Submission Local Plan, which acknowledges the ability of the village to take development owing to the facilities in the village.

## 5.6 **Landscape Impact**

5.6.1 As the site is on the edge of the village within the locally designated Area of High Landscape Value, and, as accepted above, proposes development beyond the existing built-up limits of the village, the landscape impact of the proposal is of critical importance in considering the scheme.

5.6.2 In assessing the landscape impact, it is important to note the response from the Landscape Officer who considers that the site is well screened by the existing topography, landscape features and boundary treatments (notably the hedging). She suggests reinforcing the hedging along the Northern boundary, but otherwise raises no objections on landscape or visual impact grounds. Any views of the site that are possible from more distant points than the immediate surrounding of the site would be against the backdrop of the existing built form of the village.

5.6.3 In relation to the landscape impact of the scheme, it is important to note that whilst the site does lie within the locally designated Area of High Landscape Value and the policy which designates the area as such is currently a part of the development plan, the weight of such designations has been weakened by the National Planning Policy Framework.

5.6.4 Notwithstanding that, it is considered that development of the site would not cause any unacceptable harm to the character, appearance or quality of the landscape beyond the site boundary owing to the discrete and well-contained nature of the site.

## 5.7 **Impact of the proposal on the character and heritage of the village**

5.7.1 Many contributors to the application have commented on the impact of the proposal on the historic interest of the village and made reference to the Conservation Area and other heritage assets. Whilst these are important material considerations, it is important to note the location of the site relative to the Conservation Area and any listed buildings. The site is a minimum of 220m away from the Conservation Area boundary, and separated by intervening residential properties. The site has a similar relationship to the nearest listed building.

5.7.2 As a result, it is not considered that the site has any impact on the setting or significance of any of the heritage assets in the village.

5.7.3 Turning to the broader character of the village, many contributors have commented that a development of this type and nature will harm the fundamental 'Cotswold' character of the village. As the application is in Outline with all matters reserved at this stage, the final design and appearance is not yet known. However, the overall layout, scale, density and nature of the development is not so different from other residential developments in the village to render it harmful or unacceptably incongruous. Clearly the indicative site layout is not representative of the traditional, historic street pattern of the centre of the village (the area covered by the Conservation Area), but it must be borne in mind that the site is separated from that area by linear development along Bourne Lane and the formulaic development along The Bourne. Similarly, it is clear that the immediate built-environment context of the site means that the proposal does reflect the settlement pattern of the village; with a historic core surrounded by incremental development very much of its time. Indeed, it is arguable that the immediate context of the application site does not in fact reflect the traditional character of the village or local vernacular.

## 5.8 **Flooding**

5.8.1 The site itself does not lie within the flood plain and the site is not considered to be at risk from flooding. As with all new development, there is potential for flood risk arising from the development itself, but it is proposed to attenuate additional surface water run off through the use of sustainable drainage systems (SUDS) and a storage pond within the site, with a controlled discharge ensuring that the peak flow of surface water leaving the site is no greater than that before the development.

5.8.2 Both the Environment Agency and Thames Water have noted that the sewage and water infrastructure to the site are nearing their design capacity and that this issue will have to be addressed by the developer were the application to be approved. This is also an issue that has been raised by many contributors to the application. Whilst there is an identified need to improve and upgrade the water and sewerage infrastructure, neither the Environment Agency nor Thames Water considers this to be an insurmountable issue and have requested conditions to deal with this matter.

## 5.9 **Access and highway safety**

5.9.1 The County Council as Highway Authority have considered the proposal, and accepting that the proposal is in Outline with all matters reserved, offer no objections on highways safety grounds. They have previously raised concerns over the suitability of the site in terms of transport sustainability, and the likely

difficulties in reducing the number of journeys by private car from such a site.

5.9.2 The County Council have provided clarification of their comments. They have noted that whilst the level of trip generation in the transport statement in the application was low, considering more robust figures still means that the impact on highway capacity is negligible. The County have also noted that whilst an extension to the school would add to 'school-run' pressures, given the spatial relationship of the site to the school, then this would not represent grounds for refusal. The County Officer concludes that *'subject to an appropriate S106 agreement, including both transport and schools provision, a refusal, on transport grounds, could not be sustained at appeal'*.

5.9.3 However, the judgement as to the sustainability of the site ultimately rests with the District Council. Whilst the location of the village and its relationship to the wider highway network and larger towns is appreciated and understood, the village is still identified as one of the most sustainable in the District owing to the facilities and services in the village (shop, post office, school, doctors surgery, public houses) which go some way to reducing the need to travel.

#### 5.10 **Education**

5.10.1 Throughout the consideration of this application, the impact of the proposal on the education provision, both in the village and in the County more widely has been an important issue. The impact of the proposal on the quality and capacity of the school has been a key issue raised by contributors. Similarly, the County Council expressed initial concerns over the ability of the school to accommodate the expected extra pupils as well as the impact and costs of having to transport pupils to alternative schools in the County.

5.10.2 Following further work at the County Council with regards to feasibility for an extension to the school and on the cost of transport, the County Council believe that a solution can be found for education impacts. This solution would take the form of either the extra pupils being transported to other local schools (which would be funded by the developer) or the school being expanded to increase the capacity of the school (again, with funding from the developer towards that expansion). Negotiations between the County Council and the developer are ongoing in this respect, but it is anticipated that a solution can be found.

#### 5.11 **Public comments**

5.11.1 Through the consultation on the application, the level of pre-application engagement between the developer and the community has been strongly criticised by contributors. The applicant did approach the Parish Council to discuss the proposals prior to submission (in July 2011, as noted by the Parish Council in their minutes in August 2011). Furthermore, the applicant arranged a public meeting in the village in December 2011 following which a 'Statement of Community Engagement' was published in February 2012. This Statement set out the response of the applicant to the comments received and how the applicants intend to address these comments in any future Reserved Matters application.

5.11.2 Comments were also raised as to the timing of the application; suggesting both that it was timed to avoid any ramifications from the Localism Act and that the housing has been proposed in advance of any allocation or assessment of need. It is clear therefore that there is a strong level of objection within the village to the proposal. This level of objection is material to the consideration of the scheme, but

has to be weighed against the NPPF's presumption in favour of sustainable development and the lack of other harm that has been identified arising from the proposal.

5.11.3 Whilst it is true that the site is not allocated for housing, there is an established need for housing within the District, and as set out above, the lack of a deliverable five-year supply of housing alters the way in which the Council can consider development proposals such as this. Similarly, the Localism Act does not preclude development such as this.

## 5.12 **Planning Obligations**

5.12.1 The proposed development would generate a need for infrastructure and other contribution to be secured through a planning obligation, to enable the development to proceed. At the time of writing this report negotiations are ongoing with the applicants and the County Council to secure the necessary contributions to meet the needs arising from this development.

5.12.2 Having regard to the above, it is likely that the Heads of Terms relating to the obligation will include the following;

5.12.3 District Council requirements  
affordable housing at 30%, the type, tenure and mix of which is to be fixed in line with local needs  
open space, sport and recreation facilities, including LAP provision  
refuse bins and recycling  
community facilities

5.12.4 County Council requirements  
general transport and access impacts, including rights of way if necessary  
education  
school and library infrastructure  
day care and adult learning  
museum resourcing  
strategic waste management  
policing

## 5.13 **Conclusion**

5.13.1 As set out above, the acceptability or otherwise of this proposal now falls to the interpretation and application of the tests set out in the National Planning Policy Framework balanced against the requirements of the primary legislation.

5.13.2 In essence therefore, the proposal must be considered against the requirements of Sections 70(2) of the principal Act and 38(6) of the Planning and Compulsory Purchase Act 2004 which state that proposals must be considered against the development plan unless material considerations indicate otherwise.

5.13.3 As set out above, the development plan is made up of the saved policies in the Cherwell Local Plan 1996 and the policies in the South East Plan 2009. The policies in the May 2012 proposed submission draft Cherwell Local Plan are material in terms of indicating a 'direction of travel' for planning policy, as is the Annual Monitoring Report and the National Planning Policy Framework.



- 5.13.4 It is important to note that the National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making.
- 5.13.5 The district does not presently have a five-year supply of deliverable housing land and the National Planning Policy Framework makes it clear that in such circumstances policies for the supply of housing cannot be considered up to date. As such, the National Planning Policy Framework sets out that proposals for new housing development should instead be considered against the test in para 14 of the Framework which states that (where the development plan is out of date) development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The line of argument made in the Adderbury case, and in the now-superseded Housing Land Supply Position Statement, that approval may lead to an unmanaged rush of rural housing site releases which would in turn cause harm is not considered to outweigh the benefits.
- 5.13.6 Whilst the level of objection to the scheme is clearly substantial, it is considered that the scheme does, on balance, pass the test set out in paragraph 14 of the National Planning Policy Framework. The consultation pursuant to the application demonstrates that no adverse impacts would arise from approving the development which would outweigh the benefits of doing so. Fundamentally, the landscape, highway, infrastructure and education impacts of the proposal do not outweigh the benefits arising from the provision of housing (both market and affordable) for which there is a demonstrable need and demonstrable shortfall and as such, the proposal passes the test. This reasoning (that the tests in the National Planning Policy Framework supersede the tests in the development plan) is consistent with the approach taken in the recent Adderbury appeal inquiry, the reasoning applied in the recent Adderbury appeal decision, and is consistent with the response from the Planning Policy Officer. Furthermore, the method of calculating the housing land supply has been ratified by the legal advice taken since the deferral of the scheme from the June Committee meeting. The Framework still requires planning authorities to have regard to the viability and deliverability of housing schemes when calculating land-supply. As such, the revised figure of 3.1 years remains valid.
- 5.13.7 Following the dismissal of the appeal against the refusal of planning permission for a development south of Milton Road, Adderbury (11/01409/OUT refers), questions have been raised as to whether that appeal decision would affect the determination of this application (and this was the second reason for the deferral of this application from the previous meeting). Having examined the decision letter for that application, it is not considered that the dismissal of that appeal does materially affect the consideration of this scheme. That decision confirmed the housing land-supply position approach, but then went on to dismiss that appeal for site-specific reasons which are not considered to apply to this site.
- 5.13.8 Similarly, questions have been raised as to why Officers recommended refusal of an application at Chesterton for 44 dwellings on the edge of the village (12/00305/OUT refers). Again, comparisons between that site and this application make the difference clear; Chesterton is not identified as one of the more sustainable villages and the site at Chesterton is a more open and less discrete site and does not relate to the existing built area of the village in the same way as the application under consideration here.

- 5.13.9 The consideration of this proposal and the weighing of the harm and benefits needs to be carefully considered. The level of public objection, and issues surrounding education provision must be balanced against the benefits of contributing to the wider district in terms of returning the district to a five-year housing land-supply. This must also include of course consideration of the overall sustainability of the scheme. Notwithstanding the level of public objection, the relatively low score for Hook Norton in the CRAITLUS study and the general policy approach to development of this sort, it is considered that the benefits to the proposal do outweigh these factors.
- 5.13.10 The scheme is considered to be deliverable; the site is not previously developed land, is of a scale and type to be deliverable in the current economic climate. In addition, the developer has indicated that they would be able to comply with the shortened time periods for submission of Reserved Matters applications and implementation.
- 5.13.11 In light of the assessment set out in the paragraphs above, Officers consider that the material considerations pursuant to the proposal outweigh the restrictions arising from the relevant policy in the development plan (principally Policy H13 of the adopted Cherwell Local Plan 1996). The suitability of the site, its discrete nature giving rise to very limited landscape and visual harm, the provision of affordable and market housing for which there is a demonstrable need, coupled with the requirements of the National Planning Policy Framework, the South East Plan and the direction of travel set out in the May 2012 proposed submission draft of the Cherwell Local Plan demonstrate that there are material considerations which outweigh the development plan, in accordance with Section 70(2) of the principle Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004.
- 5.13.12 Although a balanced assessment, it is on balance concluded that permission should be granted.

## **6. Recommendation**

### **Approval, subject to:**

**a) the applicants entering into a legal agreement to the satisfaction of the District Council in respect of the likely heads of terms set out in paragraph 5.12 above;**

**b) the following conditions** (subject to amendment under delegated authority);

1) Approval of reserved matter details

2) Time limit for the submission of reserved matters (one year)

3) Time limit for commencement (one year)

4) That no more than 70 dwellings shall be accommodated on the site. Reason - In order to achieve a satisfactory form of development, to ensure that the site is not overdeveloped and to comply with Policies H5 and BE1 of the South East Plan 2009 and Policies C28 and C30 of the adopted Cherwell Local Plan.

5) No works of site clearance or development shall take place until an updated Great crested newt survey has been submitted to and approved in writing by the local planning authority. This survey shall include details of any mitigation measures required should newts be found on site.

6) No removal of mature trees shall take place until such time as they have been checked for bats immediately prior to removal. Should bats be found to be present in a tree due for removal, a bat mitigation scheme must be submitted to and approved in writing by the local planning authority prior to the removal of the trees concerned.

7) No works of site clearance or development to take place until an ecological enhancement scheme has been submitted to and approved in writing by the local planning authority. This is to include details of how the lighting scheme will be designed to reduce impacts on wildlife.

8) Scheme of tree and hedgerow protection to be submitted to and approved in writing

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 that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community.

10) Development should not be commenced until: Impact studies of the existing water supply infrastructure have been submitted to, and approved in writing by, the local planning authority (in consultation with Thames Water). The studies should determine the magnitude of any new additional capacity required in the system and a suitable connection point. Reason: To ensure that the water supply infrastructure has sufficient capacity to cope with the/this additional demand.

11) No development approved by this planning permission shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological 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. Reason - To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the drainage system. To prevent the potential pollution of the underlying aquifer from the use of soak-aways in contaminated land.

12) Prior to any demolition on the site and the commencement of the development a professional archaeological organisation acceptable to the local Planning Authority shall prepare a first stage archaeological Written Scheme of Investigation, relating to the application area, which shall be submitted to and approved in writing by the Local Planning Authority. Reason - To safeguard the recording and inspection of matters of archaeological importance on the site in accordance with government guidance in Section 12 of the National Planning Policy Framework.

13) Prior to any demolition on the site and the commencement of the development and following the approval of the first stage Written Scheme of Investigation referred to in condition 12, a programme of archaeological evaluation, investigation and recording of the application area shall be carried out by the commissioned archaeological organisation in accordance with the approved first stage Written Scheme of Investigation. Reason - In order to determine the extent, character and significance of the surviving remains of archaeological interest and to safeguard the recording and inspection of matters of archaeological importance on the site in accordance with government guidance in Section 12 of the National Planning Policy Framework.

14) Prior to any demolition on the site and the commencement of the development and following the completion of the archaeological evaluation, investigation and recording referred to in condition 13, a report of the archaeological evidence found on the application site and full details of a second stage Written Scheme of Investigation based on the findings, including a programme of methodology, site investigation and recording, shall be submitted to and agreed in writing by the Local Planning Authority. Reason - To safeguard the recording and inspection of matters of archaeological importance on the site in accordance with government guidance in Section 12 of the National Planning Policy Framework.

15) Prior to the commencement of the development and prior to any demolition (other than in accordance with the second stage Written Scheme of Investigation), the further programme of archaeological investigation shall be carried out and fully completed in accordance with the second stage Written Scheme of Investigation approved under condition 14. Reason - To safeguard the recording and inspection of matters of archaeological importance on the site in accordance with government guidance in Section 12 of the National Planning Policy Framework.

16) Following the completion of the fieldwork all post excavation work including all processing, research and analysis necessary to produce an accessible and useable archive and its deposition, and a full report for publication, shall be submitted to the Local Planning Authority in accordance with the revised Written Scheme of Investigation approved under condition 15. Reason – To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance

with government guidance in Section 12 of the National Planning Policy Framework.

17) Means of access to be in accordance with OCC specification

18) Vision splays to be retained unobstructed

19) Estate roads and footpaths to OCC specification

20) Accesses, driveways and turning areas to specification to be submitted

21) Car parking in accordance with standards (layout, drainage, specification) – to be submitted

22) Control of construction traffic access

23) No conversion of garages/car ports

24) Fire hydrants

25) A Local Area of Play (LAP) shall be provided in accordance with the Council's adopted policy. Details of the siting and design of the LAP shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development and thereafter it shall be provided in accordance with the approved details prior to the occupation of any dwelling within 30m of the LAP or prior to the occupation of the first 10 dwellings which ever is sooner. Reason - To ensure the provision of appropriate play facilities to serve the development and comply with Policy CC7 of the South East Plan 2009 and Policy R12 of the adopted Cherwell Local Plan.

26) That the site layout in any Reserved Matters application must accord substantially with the indicative layout submitted on this application (keeping the North-Eastern 'ear' of the site undeveloped as open space). In addition the layout shall provide for access to the land controlled by the Council to the South of the site.

## **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 being of a layout, scale and design appropriate in its context and will not have a detrimental effect on the neighbouring residential amenities. It will not cause harm to the visual amenities of the wider rural landscape, acknowledged archaeological interests, highway safety, ecology or flooding. Moreover, the proposal will assist the district in the delivery of affordable and market housing, and will contribute towards returning the district to having a five year housing land supply. The proposal, therefore, complies with government guidance contained in, Policies CC1, CC4, CC6, CC7, T1, T4, C4, C5, BE1, NRM1, NRM2, NRM4, NRM5 and NRM11 of the South East Plan 2009; Policies C7, C8, C13, C28 and C30 of the adopted Cherwell Local Plan and Policies BSC1, BSC2, BSC3, BSC4, BSC7, BSC10, BSC11, BSC12, ESD1, ESD6, ESD7, ESD10, ESD13, ESD16, Policy for Villages 1, Policy for Villages 2 of the May 2012 proposed submission draft of the Cherwell Local Plan. Whilst the proposal is contrary to the provisions of Policies H12, H13 and H18 of the adopted

Cherwell Local Plan 1996, this is outweighed by the content of the National Planning Policy Framework and the need for the district to return to a five-year housing land supply. For the reasons given above and having regard to all other matters raised, the Council considers that the application should be approved and outline planning permission granted subject to appropriate conditions, as set out above.

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