

<b>Application No:</b> 12/00472/F	<b>Ward:</b> Hook Norton	<b>Date Valid:</b> 17/04/2012
<b>Applicant:</b>	A C Lloyd (Homes) Ltd	
<b>Site Address:</b>	DJ Stanton (Engineering) Ltd, Station Road, Hook Norton, OX15 5LS	

**Proposal:** Demolition of existing industrial buildings and erection of 28 houses together with associated access, car-parking, open space and landscaping

**Date site visited:** 23/05/2012

## 1. Site Description and Proposal

- 1.1 The application site lies on the eastern edge of Hook Norton, to the south of the road from Milcombe. The site is on a former railway embankment and rail line. The site contains a small group of industrial buildings consisting of one large modern unit with some smaller sheds, known as Stanton Engineering. The site is bounded almost entirely by steep slopes with a large number of mature trees and scrub type vegetation. To the west of the site at a much lower land level is Austin's Way, a cul-de-sac of bungalows and to the south west is the curtilage of Crooked Cottage, a listed building. To the east of the site, beyond the belt of trees is agricultural land.
- 1.2 The application as originally submitted was for the demolition of the industrial buildings and the erection of 31 dwellings. However the scheme has been amended and now proposes 28 units. The proposal includes a variety of house types, including 30% affordable housing, the retention of the embankments and many of the existing trees, elements of open space and mainly on-plot parking. The access to the development is to be taken via the existing access into Stanton Engineering.
- 1.3 The application was accompanied by a Planning Statement, Design and Access Statement, Visual Analysis and Landscaping Assessment, Transport Statement and Travel Plan, Desktop Ground Investigation, Flood Risk Assessment, Phase 1 Ecological Survey, Pre-development Tree Survey, Topographical Survey and proposed plans.

## 2. Application Publicity

- 2.1 The application has been advertised by way of three site notices and an advert in the local press. The site notices were located at the site access, Austin's Way and opposite the junction at East End. The final date for comment was 24 May 2012. However comments received up until the date of committee will be considered. Following the receipt of amended plans the Parish Council was re-consulted along with those residents who had commented on the original scheme. The final date for comment on the amended plans is 13 August 2012.
- 2.2 9 letters/emails of representation were received, 6 objecting to the proposal and 3 supporting the proposal. Full details of the comments are available electronically via the Council's website.

The material planning considerations raised as objections are as follows:

- New houses will create scar on landscape and dominate the embankment
- Destroy area of high landscape value
- Adverse impact on woodland and wildlife
- Out of proportion to site by nature and density
- Overdevelopment on small and constrained site
- 24 hour noise from residents and cars
- Light pollution
- Insufficient capacity at primary and secondary schools – OCCs calculations are inaccurate
- Increased pressure of utilities
- Dependence on cars, increase in traffic, highway safety at access
- Insufficient space for meaningful play area
- Development should be concentrated on urban areas, protecting rural villages
- Un-neighbourly form of development
- Proximity and affect on setting of listed buildings due to elevated site, two storey dwelling and proximity to boundary
- Overlooking and overbearing – loss of privacy
- Impact on character of Conservation Area
- Object to felling of some of the trees
- Consultation meetings not properly advertised or attended
- More houses not needed
- Character of village already suffered from previous development
- Layout poorly planned
- Abuse of the planning process seeking incremental consents
- Lack of jobs

The material planning considerations raised in support are as follows:

- Brown field site within village boundary
- Welcome the removal of tall and potentially dangerous trees
- Increased light
- Enhancement to rundown area
- Reasonable housing mix
- Developer has carried out reasonable consultation and made concessions
- Domestic development preferable to industrial
- This site preferable to development at Bourne Lane
- Proposals meets CDC's aspirations as set out in Draft Local Plan

The applicants have submitted the results from their own consultation process. Out of 14 respondents 9 were in support of the scheme, 3 were not wholly in support as they had some concerns about the number of houses being proposed and 2 were against the proposal.

### 3. Consultations

- 3.1 In relation to the original scheme **Hook Norton Parish Council** raised objections on the following grounds:
- Feel that if development was smaller and made better provision for amenity space for children then most of the villagers and the PC would be able to support redevelopment of this brownfield site
  - Primary school is fully subscribed and concern that the development will

- produce more school aged children than predicted.
- The secondary school is only accessible by subsidised school bus, private car and is fully subscribed
- Village has no gas supply therefore only option is oil which has volatile pricing and a high carbon footprint
- Electricity supply is marginal in the village with frequent outages
- Roads and surrounding networks are not designed for current level of traffic let alone the increase that will occur from the development
- Development contrary to core strategy objectives – SO12 (Transport), SD1 (Climate Change).
- Regard should be had to Localism Act and the views of the local people and the PC
- Following should be considered in event of approval, not further extensions in height to bungalow on plot 5, Plot 31 reduced to bungalow or removed.

After a further consultation process following the receipt of amended plans the Parish Council withdrew objections and made the following comments;

- Note removal of plots most objected to
- Still believe Hook Norton is an unsustainable location
- Concern that anything other than minor development will adversely affect infrastructure
- Recognise that Hook Norton is expected to take a share of development in the next 25 years – approx 38 houses in Draft Local Plan
- Believe that this brown field site is the only suitable site for development of this size and taking amended plans into account the PC wishes to withdraw its objections
- Commend AC Lloyd re the community engagement
- If proposal is to be approved expect that CDC acknowledges that Hook Norton has met its obligation towards housing numbers by virtue of both this development and the infill which will undoubtedly take place in the next 25 years and as such proposals to develop other green field sites should be rejected.

3.2 **Environments Agency** comment as follows: No objections subject to a number of conditions.

3.3 **OCC Highways** comments are summarised as follows:

- Poor accessibility with limited shops and services locally
- Walking and cycling unlikely to be used other than locally
- Bus service available but poor frequency with limited destinations
- Employment opportunities locally are few
- School has limited if any capacity
- Reliance on private car
- CRAITLUS study noted that Hook Norton amongst the most remote villages in terms of access to larger towns
- Matter for District to consider but in light of NPPF may be difficult to prove detrimental impact
- Relevant to consider fact that employment site already attracts vehicular movements
- Contributions required towards transport infrastructure improvements
- Consider that traffic movements will be higher than estimated in Transport

Assessment.

- Unlikely to be any significant impact on the capacity of local highway network and the convenience of other highway users
- Construction phase traffic management plan required
- Access is appropriate but improvements to footway and a uncontrolled crossing will be required
- Layout accords to Manual for Streets and Council's Residential Road Design Guide
- Parking levels are appropriate
- Garages should not be converted and should be a minimum size of 3x6m (internal)
- Appropriate provision made for waste collection
- Conditions are proposed

3.4 **OCC Drainage** comment as follows: The use of basin storage is acceptable, and interceptor will be required for drainage from highway and other hard surface areas where contaminants are a risk, i.e. private driveways etc. Whilst conditions can be imposed the developer should be sure that the drainage strategy will be feasible.

### 3.5 **Strategic Housing**

Oxfordshire Rural Community Council Housing Needs Survey (April 2012) identified that there is some interest in self build schemes from respondents who are also on the housing register.

There are 19 people on the register who currently live in Hook Norton and others who may still qualify for housing in this area.

Another application in Hook Norton is being assessed which if approved would help meet some of the need, however there would still be some outstanding need that could be met through this site.

If this application is to be approved the mix should be slightly revised and if the other site is approved the potential for self build should be explored.

### 3.6 **Head of Strategic Planning and the Economy** (Planning Policy, Economic Development, Urban Design and Conservation)

In relation to Planning Policy the following comments were made;

- Previous appeal identified that former railway embankment could be used as definable limit to this part of settlement – does not necessarily mean that site lies within built-up limits of the village
- Site consists of previously developed land
- Local Plans – urban focus for development
- Should plan positively to meet defined rural needs
- If site considered to be within village, village categorisation policies will apply.
- Policy EMP5 of the Non-Statutory seeks to retain employment sites and should be considered
- Proposed Submission Local Plan carries limited weight but includes a policy which allows for a distribution of houses between villages – but the precise numbers have not yet been set out
- Hook Norton Parish had recorded 37 housing completions from 2001 to 2011
- District does not currently have a five year supply of housing land – supply is 3.1 years

- NPPF allows for windfalls to be considered if there is evidence that such site have come forward consistently – even taking account of windfalls the Council still does not have a 5 year housing land supply
- NPPF presumption in favour of sustainable development and where plans are absent, silent or relevant policies are out of date permission should be granted unless any adverse impacts of doing so would significantly or demonstrably outweigh the benefits – this assessment needs to be made in light of fact that Council does not have five year housing land supply
- 12 core planning principles in the NPPF

In relation to Economic Development the Council's officer has reiterated comments made back in 2010. There does not appear to be sufficient justification for the removal of business land – especially as this is probably the most appropriate land for business in the village. Housing on the site will act against maintaining a balance between employment opportunities and resident population. Desire to see the retention of the employment land and the marketing of the site at a realistically low price. This is supported by the existing Economic Development Strategy 2007-11.

In relation to conservation it is considered that the site is well contained from the Conservation Area by virtue of the existing trees. Widespread removal of the trees will impact negatively on the setting of the conservation area and listed building. The original plans made little reference to the local building tradition and specific comments were made with regard to the design features of the proposed dwellings. The plans have been amended since these comments were made.

**3.7 Head of Public Protection and Development Management (Anti Social Behaviour, Building Control, Environmental Protection)**

In relation to impacts on occupants of Austin's Way and The Station House there is the potential for lights of vehicles traversing the plateau to cause annoyance to the occupants of the properties below. Applicants indicate that in addition to reinforcing the planting of the embankment between the development site and Austin's Way fencing will be introduced at the top of the embankment. Providing this fencing is of sufficient height to take account of any subtle changes in gradient across the site this should offer adequate protection to the properties below. Close board fencing would have the added benefit of noise attenuation. Adverse effects on The Station House are not anticipated.

In relation to Building Control matters the submitted Ground Investigation report recommended the need for further slope stability analysis to establish the stability of the site. The submission also lacks sufficient structural information relating to appropriate designs which might be suitable to address issues posed by the site.

**3.8 Head of Environmental Services (Arboriculture, Landscape Services)**

Original comments from the Council's Arboriculturalist acknowledge the importance of the existing trees for their significance as a wildlife habitat and recognises that the removal of the trees will open up the site to wider views. Many of the trees will result in shading of the proposed development potentially leading to future pressure to remove trees. The original layout also posed potential problems with development being within the root protection areas of retained trees or close to crowns. Whilst the trees have been categorised individually for their value their group value is much higher. The removal of many of the trees

originally appeared to be based on facilitating the development and to the benefit of the residents of Austin's Way rather than for arboricultural reasons.

In relation to landscape impact it is acknowledged that the proposal is unlikely to have any adverse impact on the wider landscape due to intervening screening between the development sites and public viewpoints. However in relation to the original plans there were concerns that as a result of the removal of a significant number of trees there would be adverse visual impact from Station Road and Austin's Way.

In response to the receipt of amended plans the landscape and arboricultural officers made the following comments;

- Applicants have moved a long way towards meeting desire to retain as much of the best of the screen planting on the bank as possible.
- Scheme should now retain a sufficient amount of tree cover in the short term with potential to retain and manage tree cover in the long term – ensuring that the screen remains and visual impact of the development is minimised
- Would like to see more trees planted and some minor changes to species but in principle the revised proposal is acceptable.

- 3.9 **Head of Community Services** (Safer Communities, Nature Conservation, ROW)  
In relation to ecology the survey found that the site contains common plant species, little habitat for roosting bats but high potential for attracting foraging bats, high potential for reptiles, good nesting habitat for birds and a single outlier badger sett and evidence that the site is used by foraging badgers. The badger sett is not affected by the development and should be protected during construction. A reptile survey will be required before work commences and a further bat activity survey will be required to ascertain whether any of the trees to be removed contain bat roosts. Several conditions are proposed.
- 3.10 **Thames Valley Crime Prevention Design Advisor:**  
No formal objections but request conditions relating to Secured By Design accreditation. Footpath and public amenity space not naturally surveyed, if this can't be redesigned measures to reduce the risk of anti-social behaviour should be explored. Plots 5 and 6 could include active ground floor windows to increase natural surveillance.
- 3.11 **Thames Water:** In relation to waste water comments, the applicants are advised that if the building work falls within 3 metres of pipes that connect to public sewers they should make contact with Thames Water to discuss the need for further approval from Thames Water. Public sewers close to the site may be affected by the development therefore further advise should be sought in order to establish if Thames Water will give their consent for such development. The developer should make proper provision for surface water drainage to ground, water courses or suitable sewer which should be regulated through on or off site storage. Conditions and informatives are proposed.

#### 4. Policy Considerations

## **National Planning Policy Framework**

Core planning principles and the delivery of sustainable development and a presumption that where plans are absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, 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**

### **Cross Cutting – Policies**

- CC1: Sustainable Development
- CC6: Sustainable Communities & Character of the Environment
- CC7: Infrastructure and Implementation

### **Housing – Policies**

- 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

### **Transport – Policies**

- T1: Manage and Invest
- T4: Parking

### **Natural Resource Management – Policies**

- NRM1: Sustainable Water Resources & Groundwater Quality
- NRM2: Water Quality
- NRM4: Sustainable Flood Risk Management
- NRM5: Conservation and Improvement of Biodiversity

### **Countryside and Landscape Management – Policies**

- C4: Landscape and Countryside Management

### **Management of the Built Environment – Policies**

- BE1: Management for an Urban Renaissance
- BE5: Village Management
- BE6: Management of the Historic Environment

### **Social and Community Infrastructure**

- S1 – Supporting healthy communities

### **Central Oxfordshire – Policies**

- CO1: Core Strategy
- CO3: Scale and Distribution of Housing

## **Adopted Cherwell Local Plan 1996 Saved Policies**

- H5: Affordable Housing
- H12: New Housing in Rural Areas
- H13: Housing in Category I Settlements
- H18: New dwellings in the Countryside
- TR1: Transportation Funding

C2: Protected Species  
C7: Landscape conservation  
C13: Areas of High Landscape Value  
C27: Design Considerations - Historic Settlement Pattern  
C28: Design, layout etc standards  
C30: Design control  
ENV12: Contaminated Land

**Non-Statutory  
Cherwell Local Plan  
2011**

**The Rural Areas**  
EMP5 – Protection of Existing Sites

**Proposed Submission  
Draft Cherwell Local  
Plan**

**BSC1:** District Wide Housing Distribution  
**BSC2:** The Effective and Efficient Use of Land – Brownfield land and Housing Density  
**BSC3:** Affordable Housing (35% in rural areas)  
**BSC4:** Housing mix  
**BSC7:** Meeting Education 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:

- History
- Policy Context
- Housing Land Supply
- Landscape and Visual Impact, including impact on trees
- Neighbour Impact
- Access and highway safety
- Other issues

### 5.2 History

The site has a long planning history of applications for both business and residential proposals.

**CHN.49/00034** – Building for storing Agricultural Foodstuffs – Approved subject to conditions

**CHN.62/00304** – Use two existing buildings for light engineering work – Approved subject to conditions.

**CHN.73/00383** – Erection of new factory building with office and toilets – Approved subject to conditions.



**95/01951/F** – Erection of new workshop/store with office and toilets – Approved subject to conditions.

**03/00127/OUT** – Erection of 26 No. houses and associated garaging and erection of 2 No. B1 (Business) employment units with associated landscaping and other ancillary works – refused for the following reasons, appeal withdrawn;  
*Although previously developed land should be utilised wherever possible the sequential site search advocated by PPG3 (Housing) focuses upon the reuse of previously developed land in urban areas in order to promote more sustainable development patterns and to reduce the amount of Greenfield development. Previously developed land in rural areas can contribute to this approach however it should not be assumed that all such land has development potential. The application site is situated at the edge of the village and in an elevated position. The construction of two storey houses, even on the proposed lowered ground level, and at the density and numbers proposed, would create a hard and prominent urban edge to the village detrimentally affecting views of the settlement and dominating the dwellings sitting at a much lower level in Austin's Way. Furthermore by developing in depth along the line of the former railway the built-form would appear alien and out of character with the predominant settlement pattern of the village which would be exacerbated by the elevated nature of the site. As such the proposal is therefore considered to be contrary to Policy G2(a) of the Oxfordshire Structure Plan 2011 and Policies H13, C7, C27 and C30(i) of the adopted Cherwell Local plan.*

**03/01334/OUT** – Erection of market and non-market affordable houses and associate garaging and B1 employment uses with associated landscaping and other ancillary works – refused for the following reasons, appeal withdrawn;  
*Although previously developed land should be utilised wherever possible the sequential site search advocated by PPG3 (Housing) focuses upon the reuse of previously developed land in urban areas in order to promote more sustainable development patterns and to reduce the amount of Greenfield development. Previously developed land in rural areas can contribute to this approach however it should not be assumed that all such land has development potential. The application site is situated on the edge of the village in an elevated position. The construction of houses on this site would create a hard and prominent urban edge to the village detrimentally affecting views of the settlement and dominating the dwellings sitting at a much lower level in Austin's Way. Furthermore with any development in depth along the line of the former railway the built form would appear alien and out of character with the predominant settlement pattern of the village which would be exacerbated by the elevated nature of the site. As such the proposal is considered to be contrary to Policy G2 of the Oxfordshire Structure Plan 2011 and Policies H13, C7, C27 and C30(i) of the adopted Cherwell Local Plan.*

**05/01919/F** – Relaxation of condition on 95/01951/F to enable the retention of the pre-fabricated garage

**09/01450/F** - Change of use of land, previously used as railway land, for the erection of five residential properties – Allowed at appeal (appeal decision referred to later in the report)

**11/00585/F** – Erection of 4 no. residential dwellings – Approved subject to conditions

### 5.3 Policy Context

- 5.3.1 The adopted Cherwell Local Plan, 1996, does not contain any policies specifically relevant to this site in relation to allocations for housing development. The Council has consistently maintained that the majority of the site is beyond the built up limits of the village and officers continue to support this view. Based on this consideration the proposal cannot comply with Policy H13 which supports residential development within Category 1 settlements providing it constitutes infilling, minor development and conversions. Given the site is an existing employment site on the edge of the village it cannot easily be defined as open countryside. Therefore it is difficult to relate the proposal directly to Policy H18 of the adopted Cherwell Local Plan which restricts the development of new dwellings in the open countryside unless it is essential for agricultural or forestry purposes. However it is clear that the proposed dwellings are not required for agricultural or forestry purposes. Therefore the proposal is contrary to Policy H18. The proposal relates to an existing employment site and if the development is approved this use would be lost. There are no policies in the adopted Local Plan which seek to resist the loss of employment sites. The adopted Local Plan does contain other policies of relevance that will be discussed later in the report. These relate to matters such as infrastructure, ecology, landscape and visual impact.
- 5.3.2 The non-statutory Cherwell Local Plan was adopted for development control purposes. It does not allocate the application site for development but does contain similar policies relating to development as referred to above. The proposal is contrary to non-statutory policies restricting development in the open countryside. The non-statutory plan does contain a policy (EMP5) which seeks to prevent the change of use or redevelopment of an existing employment site within or adjoining a village to a non-employment use unless there would be substantial and demonstrable planning benefit or that the applicant demonstrates that every reasonable attempt has been made to secure suitable employment reuse.
- 5.3.3 The South East Plan contains many policies that are relevant to the consideration of this proposal. One South East Plan policy that deals with the principle of development is SP3. Policy SP3 sets out that the key focus for development should be within or adjacent to urban areas. This element of the policy is not directly complied with as the development is on the edge of a rural settlement and not one of the district's largest urban areas. However the policy also seeks to achieve 60% of development on previously developed land, ensure that developments are well designed and consistent with principles of urban renaissance and sustainable development. Given that the site was originally associated with the railway and is in employment use it is considered to be previously developed and as such this element of the policy is complied with. Policy SP3 of the South East Plan is reflected in the NPPF at paragraph 111 where the reuse of brown field land is encouraged. The sustainability of the site and the design of the development will be discussed later in the report.
- 5.3.4 The National Planning Policy Framework (NPPF) introduces a presumption in favour of sustainable development and states that where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless "any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in [the] Framework taken as a whole" (para' 14). As far as the adopted Cherwell Local

Plan is concerned it is considered to be out of date as far as it no longer provides sufficient policies to plan for future housing growth. But it is still relevant in relation to its countryside protection policies and discouraging inappropriate development in the open countryside, which are in line with the thrust of the NPPF. This was supported in the recent appeal decision for residential development at Adderbury. One of the key considerations to take from paragraph 14 of the NPPF, in relation to this application, is whether or not there are any adverse impacts that would significantly and demonstrably outweigh the benefits of granting consent.

- 5.3.5 Paragraph 17 of the NPPF sets out twelve core planning principles which include: plan-led development, proactively driving and supporting sustainable economic development and the delivery of homes and thriving local places; taking account of the different roles and character of different areas, promoting the vitality of our main urban areas and recognising the intrinsic character and beauty of the countryside; encouraging the re-use of previously developed land; conserving heritage assets in a manner appropriate to their significance; and actively managing patterns of growth to make the fullest possible use of public transport, walking and cycling, and focusing significant development in locations which are or can be made sustainable.
- 5.3.6 The NPPF also states (para' 150) that Local Plans are the key to delivering sustainable development that reflects the vision and aspirations of local communities, that they must be prepared with the objective of contributing to the achievement of sustainable development and should be consistent with the principles and policies set out in the NPPF. The Council is currently in the process of preparing the draft Local Plan for consultation and future examination in public. This plan aims to address the points raised above from the NPPF.
- 5.3.7 The Proposed Submission Draft Local Plan supersedes the Council's Housing Land Supply Position Statement. Although at this stage it carries limited weight, it has been prepared in line with the NPPF and the general thrust of the South East Plan. The draft Local Plan contains two relevant policies relating to villages. Policy for Villages 1 deals with village categorisation and based on a number of factors, such as population size, number and range of services and facilities within the village, accessibility to urban areas etc, places Hook Norton in Category A, the most sustainable villages. Policy for Villages 2 sets out an approach for distributing growth across the district's rural areas. It puts Hook Norton in Group 2 along with four other villages, which are expected to take approximately 189 dwellings between them over the plan period. Assuming each village is expected to take a broadly equal share it would equate to approximately 37 or 38 dwellings per village. This application proposes the construction of 28 dwellings and a further 9 houses have already been approved to the north of the site. A site for 70 dwellings also appears elsewhere on the agenda. However it is not certain that an equal distribution of housing will be possible between the five villages identified in the emerging Local Plan policy and therefore at this stage each site put forward must be considered in the light of the development plan, NPPF and other material considerations. This application does not accord with a plan-led approach as a range of sites has not yet been considered through the Development Plan Document process.
- 5.3.8 Whilst the proposal is broadly in line with the approach set out in the Draft Local Plan, the site is not allocated for development. The proposal does have the support of the Parish Council, but the Parish seeks reassurances that if this site

gains planning consent the village would not be expected to accommodate further substantial residential development. This assurance can not be given. The Parish is concerned that whilst Hook Norton is one of the more sustainable villages it is not sufficiently sustainable to accommodate more than a moderate amount of growth. This is a matter that could only be fully assessed or resolved through Local Plan process.

- 5.3.9 A 2009 appeal decision for residential development on the most northern section of the site is relevant to the consideration of this application. The appeal was allowed and granted consent for five properties. The Inspector made several relevant comments. It was agreed that the site was previously developed land. The Inspector commented that the railway embankment was a strong physical boundary which could be used as a definable limit to this part of the settlement. The appeal site also benefited from its containment by the vegetation which would help screen the development.

#### 5.4 **Housing Land Supply**

- 5.4.1 Policy H1 of the South East Plan sets out the quantity of housing that each region should be providing up until 2026. Policy H2 of the same plan goes on to set out how local planning authorities should manage and deliver the regional housing provision. Whilst the proposal is not necessarily contrary to Policy H2 it is not in the spirit of the policy which encourages the appropriate allocation of housing land and as discussed previously this site is not allocated for development in any plan. Policy CO3 of the South East Plan sets out the amount of additional housing various districts should be accommodating.
- 5.4.2 The district does not presently have a five year supply. The position reported in the 2011 Annual Monitoring Report (December 2011) was that the district had a supply of 2.9 years for the period 2012-2017. This position was updated at a public inquiry in April 2012 to take into account two recent planning decisions: 1) Cotefield Farm, Bodicote – 82 homes; and 2) Yew Tree Farm, Launton – 40 homes. The conclusion was that supply had increased to 3.1 years.
- 5.4.3 Para' 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development and that 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. In this respect the Council's adopted Local Plan is not up to date.
- 5.4.4 The NPPF states that local planning authorities may make an allowance for windfall sites in the five-year supply if they have compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply. Although an allowance has not yet been formally incorporated for small sites of less than 10 dwellings, the housing trajectory in the Proposed Submission Local Plan (28 May) identifies a supply of some 70 homes per year from sites of less than 10. An estimate of some 129 homes per year was included in the (now superseded) Housing Land Supply Position Statement approved by the Executive on 6 February 2012. In either case, this would not be sufficient to return the district to a 5 year supply (3.6 years in the case of the former and to 4.0 years in the case of the latter). 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.

5.4.5 In relation to other housing land supply applications it transpired that there was some belief amongst third parties that the Council did have a five year housing land supply when taking into account all sites with planning permission. However the Council has sought legal advice that reinforces the approach that the Council has been taking, that only those applications that are considered to be deliverable within the five years can be included in the housing land supply calculations. Therefore on this basis the Council considers that it can only demonstrate a 3.1 year supply of housing land.

5.4.6 The fact that the district has not yet returned to a five-year land supply is a consideration which should carry significant weight. However a detailed assessment needs to be made as to whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposal, namely the provision of new homes to meet the requirement of paragraph 49 of the NPPF and the provision of affordable housing (30%).

## 5.5 **Landscape and Visual Impact, including impact on trees**

5.5.1 The application site is quite unique in its characteristics. It is on the eastern edge of the village and as a result of its previous use as a railway line, with some evidence nearby of a station platform, it is set on a higher land level than the surrounding sites. The site consists of a railway embankment which sits behind and above the ridge heights of the properties in Austin's Way. The site currently accommodates a number of industrial buildings and sheds which serve Stanton Engineering. Due to the very dense and high vegetation along the north western embankment the existing buildings on the site are difficult to see from Austin's Way and Station Road. The site is also difficult to identify from public footpaths to the east due to intervening land and trees belts outside of the applicants control.

5.5.2 The adopted Cherwell Local Plan contains policies which seek to protect the visual amenities and character of rural settlements and the surrounding countryside and achieve development that respects the historic development pattern of villages.

5.5.3 Given the characteristics of the site and its relationship with the wider open countryside it has been concluded that development of the site is unlikely to adversely affect the wider landscape and character of the countryside. Long distance views from the south and south east will be restricted due to intervening belts of trees outside of the application boundary, screening the site. An early version of the submission proposed a development of 31 houses with ridge heights of up to 9 metres and the removal of a large proportion of the existing vegetation along the western boundary. This raised significant concerns with officers as the removal of the trees would result in clear views into the site revealing a residential development sitting at a much higher land level than those properties in Austin's Way, appearing to sit on the ridge line of the bungalows. This would have been a prominent and incongruous form of development out of character with both the historic and more modern development patterns of the settlement. The applicant's argument for the removal of the trees was twofold, firstly and seemingly carrying the most weight in the applicant's submission, to accommodate the wishes of residents in Austin's Way who are feeling the overbearing impacts of the trees and secondly the belief that some of the trees were not of high quality and had a limited life span. It was considered that the removal of the trees and the resulting adverse visual impact would have rendered the scheme unacceptable.

- 5.5.4 In response to officers concerns and following a thorough site visit with both the Council's and applicant's tree officers and the Council's landscape officer the applicant has submitted a revised scheme which retains a larger proportion of trees, reduces the density of development and amends the layout and design of the dwellings.
- 5.5.5 A combination of the submitted amendments helps to limit the adverse visual impact. The trees that are suitable for retention are being retained as a screen to the development. However, in order to reassure the residents of properties in Austin's Way works to improve the condition of the trees will be carried out, both in terms of their safety and overbearing impact. A scheme will be required for replacement trees and a long term management programme will be required, both to fill the gaps and in order to secure the long term retention of the screening belt as the more mature trees begin to reach the end of their natural lives (in 10 to 15 years time).
- 5.5.6 The amendments to the design and scale of the properties also helps to reduce the visual impact, especially during winter months when the tree cover may be less effective as a screen. Most of the units have been reduced by between half a metre or a metre in height. Where there may be glimpses of the new properties through gaps in the trees and above the height of the trees the reduction in height will make the new dwellings less dominant than originally proposed.
- 5.5.7 Whilst the development of this site has been historically resisted with one of the reasons being the visual impact of the scheme it is likely that the screening of the site has improved over time and providing this is retained it makes it difficult to recommend refusing the application on these grounds alone.
- 5.5.8 The layout of the proposed development does little to reflect or respect the historic layout of the settlement. This concern is something that the Council tried to defend in relation to a proposal for five dwellings on land to the north of the site. However the Inspector concluded that it would be difficult to achieve an alternative layout given the linear form of the site or without compromising some of the peripheral tree cover. The same could be said for this larger site. Furthermore the retention of the trees will make it difficult to see the development in the context of the rest of the village.
- 5.5.9 In terms of design and appearance the proposal will consist of a variety of terraced, semi-detached and detached dwellings ranging from 2 bed up to 4 bed properties. The design of the properties, in most instances, is fairly traditional. However to reduce the visual impact of the scheme the eaves and ridge heights have been reduced, as a result there are large number of dormer windows across the scheme. Where the design of the properties does not closely reflect traditional styles it is considered that there will not be harm caused to the visual amenities of the locality as the site is isolated from other developments and public views due to the screening and layout of the development. The proposed materials are set out by the applicants as being a combination of stone and brick and slate and tile. Providing the right specifications of these materials are used they will be in keeping with the local palette of materials. The precise nature of the materials can be conditioned to ensure they are in keeping with the locality.
- 5.5.10 The Hook Norton Conservation Area abuts the southern boundary of the site and

extends north to the west of the properties on Austin's Way. At the same point where the Conservation Area bounds the site the curtilage of a listed property (Crooked Cottage) also shares a boundary. The listed property itself sits some 70 metres from the boundary of the site with the curtilage listed outbuildings being approximately 25 metres from the boundary. The site sits at a much higher land level than the listed property and its curtilage and the developable part of the site is screened from view by the substantial tree belt that exists. The retention of the trees helps to ensure that the curtilage of the listed property, the property itself and the conservation area are not adversely affected by the proposal.

- 5.5.11 Given the above assessment it is considered that it would be difficult to defend a reason for refusal based on landscape and visual impact and impact on the character and appearance of the Conservation Area and listed buildings. It is therefore considered that the proposal complies with policies C7, C13, C28 and C30 of the adopted Cherwell Local Plan. It is also considered to comply with the NPPF as it does not adversely affect the natural and historic environment.

## 5.6 Neighbour Impact

- 5.6.1 Given the elevated nature of the site there is the potential for development on the site to result in a feeling of overbearing and the also overlooking for the properties in Austin's Way, especially given the fact that some of the gardens in Austin's Way backing onto the development site are as short as 6 metres. However the combination of the layout of the proposed development and the amendments to retain many of the trees helps to reduce the impact on the residential amenities of existing properties. The minimum distance between an existing property and proposed property is 30 metres and this only occurs in one instance. On a flat site this distance would be considered more than adequate to protect privacy and limit overbearing. However in relation to this site the height difference, the set back of the proposed houses from the site boundary and the retention of the trees will make it difficult to see the new dwellings from the rear of the properties in Austin's Way which share a boundary with the development site, therefore preserving the residential amenities. There will be some views of the houses from elsewhere in Austin's Way but these properties are unlikely to experience any measurably adverse impact on their residential amenities.

- 5.6.2 The proposal has been assessed for the impact that may arise from vehicular movements on the site, both by way of noise and the effect of headlights. The Council's environmental health officer considers that providing there is an adequate boundary between the access roads and the boundary of the site neither issue should have a significant impact. Furthermore the properties in Austin's Way are bungalows and as such their windows are all below the height of the highest part of the site, meaning lights from cars will largely be above the height of windows.

- 5.6.3 Having considered the impact of the development on the residents of Austin's Way the only other residential property which shares a boundary with the application site is Crooked Cottage to the south west. There is 70m separation distance between the site boundary and Crooked Cottage and a further 25 metres between the nearest proposed property (plot 28). Given these distances and the fact that the majority of the trees on this part of the site are being retained it is not considered that there will be any demonstrably adverse impacts on the living amenities of the residents of Crooked Cottage.

## **5.7 Access, highway safety and sustainability of the location**

- 5.7.1 The site already benefits from a vehicular access and consent has already been given for improvements to the access in order to accommodate 9 residential houses along with the existing business use. The same improvements will be required for this proposal. There are no objections from the Local Highway Authority with regard to the use of the access for residential purposes for the scale of development proposed. By replacing the business use with further residential development the potential for conflict between different types of vehicles will be reduced.
- 5.7.2 The Local Highway Authority is generally satisfied with the layout of the development and the provision for parking spaces subject to conditions being imposed relating to the size and retention of parking spaces and garages.
- 5.7.3 Notwithstanding the fact that the Local Highway Authority raises no objections to the layout of the development and the access arrangements it does raise comments about the sustainability of the site. The site and village as a whole is one of the district's most remote settlements in terms of access to the larger towns and the bus links are limited with the potential to use alternative modes of transport likely to be restricted to within the village. However the village itself is considered to be one of the district's more sustainable villages as it benefits from a range of facilities. If the application were to be approved the applicants will be asked to make a contribution to public transport infrastructure improvements. Sustainability is a factor influencing the assessment of the application and it is considered that the concerns raised in relation to the villages remoteness would not be strong enough to resist further development given the facilities that it contains.

## **5.8 Other Matters**

### **5.8.1 Affordable Housing**

The proposal includes the provision of 30% affordable houses. This complies with the adopted policy position but falls short of the 35% provision encouraged in the draft Local Plan and that which has been achieved or proposed recently on other rural housing sites. The applicant has been asked to consider providing an additional 5% (2 units) of affordable housing but has explained that the provision of 35% affordable housing would begin to affect the viability of the scheme given the additional costs associated with redeveloping a previously developed site. . Whilst it would be desirable to achieve 35% affordable housing the proposal does comply with current requirements. Overall the provision of 30% affordable housing is a benefit and as such should be seen positively in the assessment of the application. Refusal of planning permission on the grounds of not providing 35% affordable housing is unlikely to be sustainable at appeal given the early stage that the emerging local plan is at .

### **5.8.2 Loss of employment land**

The proposal, if approved will result in the loss of an existing employment site. The sustainability of the village will have been assessed taking into account facilities within and nearby the village as well as employment opportunities. The presence of this site is likely to have added to the sustainability of the village. However, the existing use only employs four people, none of whom live in the village. The current occupants of the site, Stanton Engineering, have stated that much of the land around the buildings is surplus to their needs, rendering the site too large, but



equally the further expansion of the business is constrained by restrictions on hours of operation and noise levels. Whilst the site may no longer be suitable for Stanton Engineering there is no evidence to demonstrate that the site has been marketed for alternative employment uses and as such there is no firm evidence that the site is no longer suitable for employment uses. However the applicant has sought the opinion of a firm of Chartered Surveyors regarding the marketability of the site. This suggests that the site is poorly located and remote in relation to access to Banbury. It also identifies the low eaves height of the existing building and the lack of permanent office space. The opinion of the Surveyor identifies the proximity of residential properties and the associated restrictions as factors limiting the sites appeal to other commercial and employment businesses. There is also evidence that a commercial property within half a mile of the site took nine to twelve months to find occupiers, even with lower, more attractive rental prices.

5.8.3 Having considered the above it is regrettable that the proposal will result in the loss of an employment site that adds to the sustainability of the village. However this Council does not currently have any adopted or emerging planning policies that restrict the loss of employment land. The non-statutory Cherwell Local Plan does contain a policy that seeks to restrict the loss of rural employment sites but the document carries only limited weight and the specific policy has not been carried through to the emerging policy document. It is also worth remembering that there is an emphasis on directing development to previously developed sites where possible. The NPPF also states at Paragraph 51 that local planning authorities should normally approve planning applications for change to residential use and any associated development from commercial buildings (currently in the B use classes) where there is an identified need for additional housing in that area, provided that there are not strong economic reasons why such development would be inappropriate. Given this guidance and the lack of local policy it is considered that it would be difficult to defend a reason for refusal based on the loss of employment land.

#### 5.8.4 **Flooding/Drainage**

In relation to the risk of flooding the site itself is within flood zone 1 but abuts flood zones 2 and 3. The site also falls outside the flood zone relating to a 1 in 100 chance of flooding. Furthermore the height of the site in relation to its surroundings means that it is highly unlikely to be at risk of flooding. Given the characteristics of the site it is also highly unlikely that the site is at risk from surface water flooding. The application also needs to be assessed in terms of the potential to increase flood risk for surrounding properties. It is considered that suitable Sustainable Urban Drainage systems can be established to deal with surface water disposal. However given the nature of the site, consisting of made up ground the use of soakaways is unlikely to be appropriate. A storage basin is likely to be the best approach to dealing with surface water disposal in order to not increase the risk of flooding off site. Full details of this can be required by condition. The Environment Agency has raised no objections to the principle of development on this site.

#### 5.8.5 **Stability of Land**

The site, as a result of its historic use, is largely man made. Whilst there are existing buildings of the site and its historic use will have required a stable site the question of land stability is an issue to consider when proposing a scheme for residential properties. Whilst this is not a common planning matter it is relevant when considering if the principle of development is acceptable. The applicant has appointed a Geotechnical and Environmental Consultant to assess the site. A

Preliminary Site Investigation report confirms that there is no evidence of significant slope instability at the site which could significantly constrain the proposed development. The report recommended that no structures be located closer than 5 metres from the crest of the slope and that no excessive removal of slope vegetation be undertaken. It is understood that if necessary allowance has been made to pile any of the units in close proximity to the slope crest. Given the fact that soak-aways are not proposed water ingress is unlikely to be an issue resulting in slope instability. Given this assessment it is considered that the site is sufficiently stable to support the proposed development but there are contingencies available should further stabilising be required following further survey work. Overall it is considered that the stability of the land is not a factor likely to render the site undevelopable.

#### 5.8.6 **Ecology**

The site contains common plant species, little habitat for roosting bats, a high potential for foraging bats, a high potential for reptiles, good nesting habitats for birds and single badger outlier sett. The Council's Ecologist has assessed the proposal and considers that with appropriate conditions to include the requirement for further pre-commencement surveys and appropriate mitigation strategies there is little risk to ecology on the site including protected species. Therefore the application is considered to comply with local plan policies which seek to protect features of ecological value and the NPPF which seeks to minimise impacts on biodiversity.

#### 5.8.7 **Deliverability**

One of the principle arguments for allowing this development is likely to be its ability to contribute to the housing land supply, helping to increase the figure closer to the required 5 years. However in order to do this it needs to be demonstrated that the proposal is deliverable within the next five years. The applicant's agent has provided an estimated time table from a Council resolution through to development which concludes that the development could potentially be commenced within 18 months (1<sup>st</sup> quarter of 2014) and completed within 3 years. The applicants already have an option on the site and the existing landowner would be party to the legal agreement. It would therefore seem that the site could be delivered within the 5 year period. In order to help secure its early delivery it is suggested that a condition be included on a consent reducing the implementation period to two years. This has been accepted on other sites that have come forward as a result of the housing land supply shortage.

#### 5.8.8 **Legal obligation**

The development will result in extra demand being placed on local infrastructure including public transport, schools, indoor and outdoor sports etc. These contributions need to be secured through a legal agreement. Although the agreement has not yet been drafted the applicant has indicated a willingness to enter into such an agreement.

5.8.9 In most instances the extra pressure on infrastructure can be mitigated against/accommodated through simple improvements to existing services and facilities funded by monetary contributions. However in respect of the lack of capacity at the primary school it is not yet clear what the preferred solution is. A couple of options are available to Oxfordshire County Council but the final decision as to what the preferred option would be is to an extent dependant on the outcome of the two planning applications for housing development in Hook Norton, currently

being considered. There is potential to expand the school but this would require more funding than would be available through the development of 28 houses. In the event of the school not having sufficient funding for expansion the County Council have requested that funding be made available for the transportation of children to alternative primary schools outside of the village.

5.8.10 It is intended that the legal agreement, amongst other things, will secure the long term maintenance of the landscaping and trees, both existing and proposed either by way of private management company or transfer to the Council with an appropriate commuted sum.

5.8.11 It is considered that the application should not be approved until a S106 agreement, satisfactory to this authority, is agreed and signed.

## 5.9 **Conclusion**

The proposal is not considered to be in compliance with adopted Local Plan Policies relating to residential developments in the rural areas. However at this time when there is a need for the district to improve its housing land supply the development of a previously developed site within a defined boundary on the edge of one of the districts more sustainable villages should be considered more favourably than the development of a green field site. The NPPF requires that planning permission be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. It is considered that the characteristics of the site are such that its development without the retention of the trees would cause demonstrable harm to the character and appearance of the immediate area. However it has been demonstrated that a suitable scheme can be achieved whilst retaining much of the existing screening, reducing the potential for adverse visual impacts to arise. It is considered that there are no other adverse impacts that would justify a recommendation of refusal given the clear guidance set out in the NPPF. It is therefore recommended that this application be approved subject to the criteria set out below.

## 6. **Recommendation**

**Approval** subject to:

- a) The expiry of the consultation period (13 August 2012)
- b) The applicant entering into an appropriate legal agreement to the satisfaction of the District Council to secure financial contributions to infrastructure improvements, including but subject to final agreement 30% affordable housing, indoor and outdoor off site sports provision, community hall improvements, open space provision and maintenance (or management company agreement), highway and transportation contributions, public art, education contributions, library stock, day centres and healthcare contributions;
- c) Conditions (subject to amendment under delegated authority);

- 1. Full Permission: Duration Limit (2 years) (RC2)
- 2. Plan numbers
- 3. Sample materials
- 4. Details of vehicular access, parking provision and turning areas
- 5. S278 works – dropped kerb and uncontrolled pedestrian crossing
- 6. Construction traffic management plan

7. No conversion of garage
8. Surface water drainage details and implementation
9. Submit hard and soft landscaping scheme
10. Carry out Landscaping Scheme and Replacements
11. Tree protection during construction
12. Landscape maintenance scheme
13. Boundary enclosure details
14. No works of demolition or works to trees or vegetation shall take place until protected species survey (reptile, bat, bird and badger) has taken place
15. Investigation for nature and extent of contamination and remediation strategy
16. Ground levels, internal floor levels
17. Petrol/oil interceptors
18. Fire hydrants

**Planning Notes:**

1. Attention is drawn to the legal agreement in the form of a Unilateral Undertaking which has been made pursuant to Section 106 of the Town and Country Planning Act 1990.
2. Thames Water Informatives

**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, 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, CC6, CC7, H3, H4, H5, T1, T4, C4, BE1, BE5, NRM1, NRM2, NRM4 and NRM5 of the South East Plan 2009; Policies H5, TR1, C2, C7, C13, C28 and C30 of the adopted Cherwell Local Plan and Policies BSC2, BSC4, BSC7, BSC10, BSC11, BSC12, ESD6, ESD7, ESD10, ESD13, ESD16 and 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 direction 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 planning permission granted subject to appropriate conditions, as set out above.

<b>CONTACT OFFICER:</b> Caroline Roche	<b>TELEPHONE NO:</b> 01295 221816
--	-----------------------------------