

81-89 Cassington Road, Yarnton

13/00330/OUT

Ward: Yarnton

District Councillor: Cllr Gibbard
Cllr Stevens

Case Officer: Paul Ihringer

Recommendation: Approval

Applicant: L., A. & T. East and P. Charlett

Application Description: Erection of 16 houses (6 affordable) and new access road

Committee Referral: Major/Departure

1. Site Description and Proposed Development

- 1.1 The application site is located on the southern side of Cassington Road in a relatively large gap between two houses. There is a new residential development on the opposite side of the road and a listed building just to the west of these recently completed houses. The site, including the land in the blue line, is currently used by a tyre and exhaust business and is located just outside the Oxford Green Belt. A footpath (420/8) runs along northern boundary (abutting Cassington Road) and part of the eastern boundary. The western boundary is demarcated by a watercourse running along its length.
- 1.2 The tyre and exhaust business, occupies a plot of land roughly rectangular in shape. It has a depth of roughly 135m and width of 65m. It is the applicants' intention to rationalise the land used for the business (a large proportion of the site has been redundant for some time) by constructing a new purpose built structure (13/00329/F refers) to the front of the site and reusing the rest of the site for housing. The housing element is the focus of this outline application (all matters reserved).
- 1.3 Discounting the access road running to the west of the proposed revamped business (new access on to the Cassington Road); the application site has a depth of 95m. Permission is being sought for 16 houses, 6 of which would be affordable (approx. 37%). Covering an area of 0.65 of a hectare, the site has a density of 24.6 dwellings per hectare.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter, site notice and press notice. The final date for comment was the 4th July 2013.

1 letter has been received. The following issues were raised

Material planning comments:
Potential flooding
Drainage issues
Highway safety

Non material comments:

Where is the affordable housing? (provision is made)

3. Consultations

3.1 Yarnton Parish Council: No objections

Cherwell District Council Consultees

3.2 Planning Policy Officer: Comments as follows:

“The site is located to the South of Yarnton and Cassington Road. The site covers an area of around 0.65ha and is presently used by Charlett Tyres which occupy the existing buildings. The remainder of the land is hard standing and used by Charlett Tyres for open storage. The site is bounded by large residential properties to the east and west and informal green space to the south. A small stream runs along the western boundary of the site, and immediately adjoining the site to the south. There is an area of Flood Zone 2 in the south right corner. The site is located outside but adjacent the Oxford Green Belt.

Development Plan

“The Development Plan for Cherwell consists of the saved policies from the Adopted Cherwell Local Plan 1996. Other material considerations include the Cherwell Non-Statutory Local Plan 2011 and the Cherwell Proposed Submission Local Plan incorporating Proposed Changes (March 2013). The Non-Statutory Cherwell Local Plan was approved by the Council as interim planning policy for development control purposes on the 13th December 2004 and carries reduced weight.

The main policy issues are considered to be:

- Housing Development at Yarnton
- Housing Land Supply
- Impact on the Oxford Green Belt

Housing Development at Yarnton

“The site is not allocated for development in either the adopted Cherwell Local Plan 1996 or in the Non-Statutory Cherwell Local Plan 2011 (NSCLP). There is no specific saved policy for residential development within the built up limits of Yarnton. Yarnton is a category 1 village in the NSCLP 2011, this restricts development to (i) infilling (ii) minor development and (iii) conversions within the built up limits.

“It is considered that the application does not constitute either infilling or a conversion and that when taking on board the individual characteristics of the application, the sites location on the edge of the settlement and inset within the Oxford Green Belt against the scale of Yarnton itself, it is suggested that this proposal constitutes more than just minor development.

“The National Planning Policy Framework (NPPF) introduces a ‘Presumption in Favour of Sustainable Development’ which is seen as a golden thread running through both plan-making and decision-taking. The NPPF paragraph 14 clarifies that “*where the development plan is absent, silent or relevant*

policies are out of date, granting permission unless any adverse impact so doing so would significant and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole." The Focused Changes to the Proposed Submission Local Plan (March 2013) introduces Policy PSD1 that reinforces locally this national position.

"A useful starting point is set out in the NPPF paragraph 17 that sets out 12 core planning principles; the most relevant to this application being;

- Proactively drive and supports sustainable economic development to deliver homes, businesses and industrial units, infrastructure and thriving local places that the country needs
- Always seek to secure high quality design
- Take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belt
- Encourage the effective use of land by reusing land that has been previously developed
- Promoting mixed used developments
- Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focusing development in locations which are or can be made sustainable

These principles should underpin decision making.

"The Proposed Submission Local Plan incorporating Proposed Changes (PSLP March 2013) carries limited weight as the Plan has not yet been adopted and has been the subject of further consultation that is yet to be formally considered by the Council. However, it includes a village categorisation (Policy Villages 1) and a proposed distribution for new development (of 10 or more homes) for rural areas (Policy Villages 2).

"The PSLP March 2013 allows for a total of 3,902 dwellings to be provided outside of Banbury and Bicester from 2006-2031 (i.e. 156 dwellings per annum compared to the former requirement of the South East Plan of approximately 185 per annum). The PSLP allows for some redistribution to Bicester. Within this requirement, Policy Villages 2 provides for a total of 96 further homes between 2012 and 2031 across a group of 16 villages, including Yarnton. This requirement is in addition to extant permissions as at 31 March 12. As at 13 May 2013 no new applications for 10 or more have been approved in these settlements with the exception of 58 dwellings at North of Station Road, Bletchington which has a committee resolution for approval making a residual of 38 dwellings.

"The PSLP March 2013 states, *"...The precise number of homes to be allocated to an individual village will be set out in the Local Neighbourhoods Development Plan Document in the light of evidence such as the ...SHLAA. Sites will be allocated in either the Local Neighbourhoods DPD or in Neighbourhood Plans. In some cases, the approval of schemes will make it unnecessary to allocate sites. Regard will be had to the level of building that has already taken place in each village to avoid over development."*

“The 38 dwelling residual requirement therefore equates to just over two dwellings at each settlement.

“In advance of the Local Neighbourhood Document it will be necessary to consider the district’s current housing supply situation, to be mindful of the amount of rural housing that has been allowed in particular locations and the likely impact of proposed developments on a case by case basis.

“The development of 16 homes on the site exceeds the indicated residual figure for Yarnton derived from Policy Villages 2. Yarnton Parish has had 258 recorded housing completions from 2001 to 2012 or 201 within the Proposed Submission Plan period 2006 – 2012. This provision reflects a large housing allocation in the Non-Statutory Local Plan; Yarnton North of Cassington Road (Policy H14) for approximately 135 dwellings, later granted permission for 218 of which 168 are complete and the remainder comprising 50 extra care dwellings.

“This existing provision is considered a slightly higher but a comparable level of growth to that received at Bloxham. This application however differs from recent Bloxham applications in that the site is considered to be in the built up limits of the settlement and although surrounded by Green Belt, it would not lead to incursion within the Countryside. The level of growth proposed at 16 dwellings is also considered a large but modest level of growth for this size of settlement.

Housing Land Supply

“Paragraph 47 in the National Planning Policy Framework (NPPF) requires Local Planning Authorities to identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements, with an additional buffer of 5% to ensure choice and competition in the market for land (or 20% where there has been persistent under delivery).

“At the time of writing the District has a 4.3 year supply (with 5% buffer) of deliverable housing land for the period 2013-18 and a 3.8 year supply with a 20% buffer. The proposed development, if shown to be deliverable, could contribute and improve the District’s housing land supply position.

“The site has been included and assessed as part of the final draft 2013 Strategic Housing Land Availability Assessment (SHLAA) with the site reference YA007. The SHLAA concludes that the site, could be suitable for a mix of dwellings of about 22 units, depending on its release from employment use subject to consideration of detailed impacts.

Impact on the Oxford Green Belt

“The NPPF Paragraph 79 states that the Government attaches great importance to the Green Belt which has the fundamental aim to prevent urban sprawl by keeping land permanently open. Para 80 defines the five purposes; to check unrestricted sprawl of large areas, prevent coalescence of settlements, safeguard the countryside from encroachment, preserve the setting and special character of historic towns and assist urban regeneration.

“The Adopted Local Plan 2006, Policy GB1 Development in the Green Belt states that “care will be taken to ensure that the visual amenities of the Green Belt are not injured by development within, or conspicuous from, the Green Belt which although not prejudicial, to its main purpose, might be inappropriate by reason of siting, materials or design.” The Non-Statutory Cherwell Local Plan Policy GB1 reiterates this point.

“It is noted that the indicative layout plans propose two storey housing at the back of the site and, in a prominent location and separated from residential development to the north. Careful consideration should be given to the sensitivities associated with this edge of settlement site given that the application extends beyond the edge defined by the adjacent residential properties and the Green Belt context.

“Careful consideration should therefore be given to this application and any subsequent reserved matters application to the potential for visual detriment to the Oxford Green Belt.

Conclusion

“There is no specific saved policy for residential development within the built up limits of development within Yarnton therefore the NPPF presumption in favour of sustainable development applies. The district does not presently have a 5 year housing land supply. The applicant would need to show that the homes could be delivered within 5 years to contribute to the 5 year supply.

“The granting of permission for 16 homes at Yarnton would significantly reduce the requirements of Policy Villages 2 in the emerging Local Plan. Having regard to the current housing land supply position, and the fact that this site comprises previously developed land outside the Green Belt at one of the district’s most sustainable villages, it is considered reasonable to consider some additional development at the village.

“There is therefore no policy objection in principle. However, there should be careful consideration as to whether the proposed number of dwellings could be satisfactorily accommodated having regard to detailed issues, particularly the perceived impact on the Green Belt and the relationship to the main built-up area of the village.”

3.3 **Urban Design Officer:** Recognises that this is only an outline application but observes that: the public realm is poor; relationship to buildings in and out of the site poor; Street layout lacks character; and the house types are poor.

3.4 **Conservation Officer:** No objection in principle.

“The proposal would be located at a suitable distance not to have a detrimental impact on the setting of the nearby listed building, Exeter Farm. I would encourage the retention of the hedgerows to preserve the streetscene in the area though.”

3.5 **Housing Officer:** Comments as follows:

“This application for 16 units in Yarnton will require a 35% affordable housing provision, this equates to 6 units.

“The unit tenures should be split between 4 units for rent and 2 for shared ownership, with the unit types being:

“Rent
3x2b4pH
1x3b5pH

“Shared Ownership
2x2b4pH

“The units should be built to a minimum of Code for Sustainable Homes Level 3 together with the HCA’s Design and Quality Standards including the HQI requirements. 50% of the units should also meet Lifetime Homes Standard.

“Due to the total numbers being provided and the likely layout of the scheme, I can accept the affordable units in one cluster

“The affordable units must be transferred to one of CDC’s preferred RP partners”

3.6 Anti-Social Behaviour Manager: Comments as follows:

“I would not object to the principle of this development. I would however wish to see a robust barrier provided between the proposed residential development and the retained tyre fitting business. I would suggest that a close boarded fence of 2 m in height and having a minimum mass per metre squared of 10 Kg would be suitable.”

3.7 Environmental Protection Officer: No comments received

3.8 Ecology Officer: Although critical of the quality of the reports submitted it was observed “*In general there does not appear to be any particularly valuable habitat that is not due to be retained on site*”. It was therefore concluded that there were no objections subject to condition.

3.9 Landscape Officer: Comments as follows:

“Further consideration of the context of the site, visual impact, landscaping and the provision of a LAP is required.”

Oxfordshire County Council Consultees

3.10 Highways Liaison Officer: Comments as follows:

Transport impact:

“The provision of 16 dwellings on the site is unlikely to result in a severe impact on the highway network.

“Yarnton village has limited facilities and services, and some employment. Access to shops is possible by modes other than the car. The site is within cycling distance of Kidlington. Premium Route bus service S3, provides a half-hourly service to Woodstock, Chipping Norton and Oxford and there is

also a bus service to the supermarket in Kidlington. However, there are no bus stops close to the development site. The development would benefit from an intermediate pair of bus stops on Cassington Road near to this site, and connecting footpaths. The Transport and Planning Strategy Team have set out detailed requirements for the bus stops in a separate response.

“Secure, covered cycle parking must also be provided for each of the proposed dwellings.

Access:

“All matters of this application are reserved, including access. The indicative layout shows a priority junction with Cassington Road, which will provide access to the proposed 16 residential units and an exit only link to the adjacent industrial site. Cassington Road already benefits from some traffic calming in the form of speed cushions.

“The principle of providing a new access to the site onto Cassington Road by way of a priority junction would be acceptable provided adequate vision splays (2.4m by 43m) can be provided. The indicative layout shows a barrier/abutment of an existing bridge within the vision splay.

“No obstructions over 0.6m must fall within the vision splay.

“The exit only link for the adjacent industrial site onto the proposed residential access road is undesirable. A mix of commercial and residential traffic is not encouraged from the highway safety and convenience point of view. It is not advisable that heavy industrial traffic exits onto a residential road which will be used by vulnerable users, for example, pedestrians or children.

“Safe access for pedestrians must be provided to and within the site. The Transport Statement mentions that a pedestrian footway will be provided between the proposed access and the existing access to Charlett Tyres, and the applicant will fund any necessary works required to link the two sections of footway, which will allow residents of the site access on foot to the centre of the village.

“The developer is required to provide, or fund, the provision of additional footways that will link the site to existing footways that lead to the village centre, and also to connect the site to the new bus stops mentioned above.

“The Local Highway Authority would support the provision of the welcome pack to new residents as outlined in the Transport Statement to encourage sustainable travel and provide information about local facilities and services.

Layout:

“A plan showing the swept path analysis / tracking diagram of refuse vehicles within the proposed layout of the site must accompany the reserved matters application. Footways and parking spaces must not be overrun.

“Parking provision and layout, and dimensions of parking spaces and garages, must comply with the county council’s *Parking standards for new residential developments* (December 2011), which is available on the county council’s website. Vehicular and pedestrian visibility splays must be

considered when designing the internal road layout and parking space layout.”

3.11 **Drainage Officer:** No objections subject to condition

3.12 **Archaeologist:** No objections

3.13 **Minerals and Waste Officer:** Comments as follows:

“The application site is underlain by deposits of sand and gravel and there are potentially workable deposits of sand and gravel within the land to the south and east of the site (Stonehouse Farm), which has been nominated by a mineral company for possible inclusion in the Oxfordshire Minerals and Waste Plan. However, the application site is already developed and there is an existing house immediately to the east. In my view any additional sterilisation of sand and gravel deposits resulting from this development would be small and does not warrant raising objection to this application.”

3.14 **Ecologist:** Agreed with CDC’s Ecologist that the reports submitted were not of the requisite standard.

Other Consultees

3.15 **Natural England:** Comments as follows:

“Natural England advises your authority that the proposal, if undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the interest features for which Oxford Meadows SAC has been classified. Natural England therefore advises that your Authority is not required to undertake an Appropriate Assessment to assess the implications of this proposal on the site’s conservation objectives.”

3.16 **Environment Agency:** Comments as follows:

“We object to the proposed development because there is an inadequate buffer zone to the watercourse. We recommend that planning permission should be refused on this basis.”

3.17 **Thames Water:** No objections subject to condition

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

GB1: Green Belts

H18: New dwellings in the countryside

C2: Development affecting protected species

C4: Creation of new habitats

C7: Landscape conservation

C28: Layout, design and external appearance of new development

C30: Design of new residential development
R12: Provision of public open space in association with new residential development
ENV12: Contaminated land
TR1: Transportation funding

4.2 Other Material Policy and Guidance

National Planning Policy Framework

Proposed Submission Local Plan Incorporating Proposed Changes (March 2013)

The Proposed Submission Local Plan Incorporating Proposed Changes (March 2013) is currently out for public consultation. Although this plan does not have Development Plan status, it can be considered as a material planning consideration. The plan sets out the Council's strategy for the District to 2031. The policies listed below are considered to be material to this case and are not replicated by saved Development Plan policy:

Policy SLE1: Employment Development
Policy BSC 1: District Wide Housing Distribution
Policy BSC 2: The Effective and Efficient Use of Land – Brownfield land and Housing Density
Policy Villages 1: Village Categorisation
Policy Villages 2: Distributing Growth Across the Rural Areas

Non-Statutory Cherwell Local Plan 2011

In December 2004 the Council resolved that all work to proceed towards the statutory adoption of a draft Cherwell Local Plan 2011 be discontinued. However, on 13 December 2004 the Council approved the Non-Statutory Cherwell Local Plan 2011 as interim planning policy for development control purposes. Therefore this plan does not have Development Plan status, but it can be considered as a material planning consideration. The policies listed below are considered to be material to this case and are not replicated by saved Development Plan policy:

H15: The category 1 villages
EMP5: Protection of existing employment sites

5. Appraisal

5.1 The key issues for consideration in this application are:

- The Principle
- Highway Safety
- Drainage/Flooding
- Design/Layout
- Ecology
- S106 Contributions

The Principle

- 5.2 This application raises two issues with regard to the principle of development of the site. The first is whether the loss of the site from employment uses is acceptable and secondly the appropriateness of the site for residential development.
- 5.3 The NSCLP policy EMP5 seeks to prevent the loss of employment sites within or adjoining villages unless there would be a planning benefit or the applicant is able to demonstrate that reasonable attempts have been made to secure suitable employment reuse. The PSLP Policy SLE1: Employment Development (Policy SLE1), subject to focused changes, also indicates employment sites should be retained unless the activity has an adverse impact, the applicant can show the site should not be retained, including marketing, or its retention is not viable or there are other planning objectives that outweigh the value of retaining the site and can demonstrate that the proposal would not have an effect of limiting the level of provision and quality of land available.
- 5.4 The NPPF identifies the Government's commitment to economic growth and the role of the planning system in encouraging sustainable economic growth. The NPPF advises at paragraph 22 that planning policies should avoid long term protection of sites allocated for employment use where there is no reasonable prospect of the site being used for that purpose.
- 5.5 These NSCLP and PSLP policies both carry limited weight. The NSCLP did not proceed to adoption but has been approved by the Council for development management purposes. The PSLP also does not have the weight of an adopted plan.
- 5.6 The current application is not supported by evidence of marketing the site for employment use. In mitigation, the applicants are not seeking to close their business, but simply to restructure the operation, which will require that only a small proportion of the existing site be retained. It is worth re-emphasising that the application site has been largely redundant since the turn of the millennium.
- 5.7 It could also be argued that if retained for B2 use the impact of new industrial units on the surrounding countryside and the amenities of the surrounding neighbours could be much greater than a residential use. The provision of housing in a sustainable location which would meet the five year land supply shortage is another significant consideration and this is explored further below.
- 5.8 With regard to residential development, the Planning Policy Officer (PPO) concludes that the application site lies within the built limits of Yarnton. On the basis of this assessment, the principle of residential development in the village is assessed against Policy H15 of the Non-Statutory Cherwell Local Plan 2011 (NSCLP) and Policy Villages 1: Village Categorisation (Policy Villages 1) in the Proposed Submission Local Plan Incorporating Proposed Changes (March 2013) (PSLP). Policies H9 and H10 of the adopted Cherwell Local Plan (CLP) were not saved following a review of the Plan by the Secretary of State in 2007. Yarnton's category 1/A village status (NSCLP and PSLP) limits development to infilling, minor development comprising small groups of dwellings on sites within the built up limits, and conversions.

- 5.9 The proposed development is quite clearly not infilling or a conversion. The PPO also concludes that the development does not constitute minor development as defined in both the NSCLP and the PSLP.
- 5.10 Notwithstanding the assessment above, officers are of the opinion that it is perhaps more arguable, irrespective of the site's position between two houses, and that like the majority of the rest of the village it is excluded from the Green Belt, that the site is beyond the built limits of the settlement and should therefore be assessed against Policy H18 of the CLP. This policy 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. The proposal obviously does not accord with this policy.
- 5.11 Whatever conclusion is reached, as to whether the site is inside or outside the village boundary, the development does not comply with development plan policy. However, the NPPF requires Councils in such a situation, to put such proposals in the context of their housing land supply position. The recent Annual Monitoring Review 2012 (AMR), dated April 2013, states that the Council has a 4.3 year (with a 5% buffer) housing land supply for the period 2013-2018.
- 5.12 Although a subsequent update demonstrates that the gap has closed, the Council still cannot meet the 5 year supply requirements of paragraph 47 of the NPPF and is unable to meet the requirement for an additional buffer of 5% or 20%. In these circumstances, paragraph 49 of the NPPF should be applied as it states 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"*.
- 5.13 Paragraph 14 of the NPPF states there is a presumption in favour of sustainable development and 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 policies in [the] Framework taken as a whole"*.
- 5.14 PSLP policy Villages 1 lends support to the principle of the development particularly in relation to Yarnton's sustainability credentials. Policy BSC1: District Wide Housing Distribution (BSC1) of the PSLP recognises that whilst the majority of new housing for the plan period should be focussed on Banbury and Bicester, the district's more sustainable villages should also contribute to the housing need. The target set in BSC1 for the villages could not have been met solely by development which complies with Policy Villages 1.
- 5.15 Policy Villages 2: Distributing Growth Across the Rural Areas (Policy Villages 2) attempts to address the potential shortfall by allocating 398 new dwellings, for schemes of 10 or more dwellings, across three identified groups of villages.
- 5.16 Yarnton is in a group of 16 villages. There are a combined total of 96 new homes allocated to these settlements for the period 2012-2031. Given this figure, not all the villages can therefore accommodate a site and the precise number of homes to be allocated to an individual village will be set out in the

Local Neighbourhoods Development Plan Document in the light of evidence contained in the Council's Strategic Housing Land Availability Assessment (SHLAA) and the AMR. As the PPO acknowledges, it could be reasonably argued that Yarnton has already had its *fair share* of housing given the approval the development to the north of Cassington Road for 168 dwelling (completed) and a extra care home for 50 units (soon to be completed).

- 5.17 Notwithstanding this planning history, the PPO nonetheless concludes that although the:

"The granting of permission for 16 homes at Yarnton would significantly reduce the requirements of Policy Villages 2 in the emerging Local Plan. Having regard to the current housing land supply position, and the fact that this site comprises previously developed land outside the Green Belt at one of the district's most sustainable villages, it is considered reasonable to consider some additional development at the village."

- 5.18 It is noteworthy that it is not only the site's sustainability credentials in terms of its location that result in a positive PPO appraisal for the application site; the PPO also refers to its status as previously development land. Paragraph B.100 of the PSLP which supports Policy BSC2: The Effective and Efficient Use of Land - Brownfield land and Housing Density states that:

"In considering development on smaller sites previously developed land within urban areas and within those villages identified by the Local Plan as being suitable places for additional residential development ('Policy Villages 2: Distributing Growth Across the Rural Areas') should generally be considered over previously undeveloped sites."

- 5.19 This relatively supportive policy response is reiterated in the recently produced SHLAA which identifies the site (reference YA007) as one of the few plots of land in, or adjacent to, Yarnton which is suitable for promotion as housing land.

- 5.20 The SHLAA assessment does however allude to material issues which could affect the acceptability of the site. Notwithstanding the current use of the land and the presence of a number of single storey buildings, it is accepted that any residential development will have a potentially adverse impact on the surrounding countryside and will therefore conflict with the aims of Policy H7 of the CLP.

- 5.21 Furthermore, if it is accepted that the development is beyond the built limits it should be noted at this point that there are two separate strands to Policy H18 of the CLP. The first is to restrict new housing beyond the built limits and the second is to serve the purpose of protecting the countryside. If the housing need argument is lost when assessed against the NPPF then Policy H18 is not automatically out-of-date because it still serves the purpose of protecting the countryside which remains very much a continued policy objective of the NPPF.

- 5.22 Although the site is not in the Green Belt, Policy GB1 states that harm could be caused by development which whilst not inside the Green is *conspicuous from* the Green Belt. There is, however, nothing in the NPPF which would indicate that Green Belts have settings *per se*, although harm to visual amenities is to be avoided.

- 5.23 Although it could be contended that the proposed number of units does not make best use of the land (density of only 24.6 dwellings pre hectare), officers agree with the applicants' assessment that given the exposed nature of the site a less dense scheme offers the potential to mitigate the visual harm that might otherwise arise.
- 5.24 In conclusion, whilst the proposal is not considered to comply with the Council's development plan, in the context of the presumption in favour of sustainable development set out within the NPPF, it is considered that, on balance, the principle of the scheme is acceptable as there would not be significant or demonstrable harm, in terms of the visual harm and the loss of part of an employment site, that would outweigh the benefits of granting permission in helping to meet the 5 year housing land supply shortage. It is therefore recommended that the applicant is only given three years to develop the site (see conditions 2 and 3).

Highway Safety

- 5.25 The Highways Officer is happy with the principle of the development, the vision splay from the proposed access meets the requisite standard, but they had reservations about the original illustrative layout which showed that vehicles leaving the tyre business would utilise the proposed access for the residential development. The Highways Officer felt that the two uses should remain separate. Although only illustrative, the layout plan has been amended accordingly.

Drainage/Flooding

- 5.26 The Environment Agency objection relating to the proximity of housing to the watercourse running down the site's western boundary was relatively academic as there is sufficient space to ensure that the built form remains outside the 5m exclusion zone sought. The revised illustrative layout demonstrates that the 5m buffer can be achieved.

Design/Layout

- 5.27 The Council's Urban Designer raised a number of concerns about the indicative layout, as did the Landscape Officer, and some of the sample house types. Although not a consideration at this stage the applicants' agent acknowledged that improvements to the scheme could be made. They were however reluctant to make any changes as it was decided that it was necessary to go the expense of amending the drawings at this stage. The Urban Designer is satisfied that the site constraints do not prohibit the ability of the site to provide for 16 houses and the necessary infrastructure (including a LAP). Officers are satisfied that the amenities of the neighbours and future occupiers of the development should not be unduly compromised.

Ecology

- 5.28 Although both OCC's and the Council's Ecologists were unimpressed by the quality of the ecology report, both experts were satisfied that given the nature of the site (limited opportunities for protected species) that it was possible to discharge the Council's duty to comply with the EC Habitats Directive as well as Policy C2 of the CLP by way of appropriate conditions (see below).

Planning Contribution

5.29 OCC has indicated that they are seeking funding for the following:

Primary School	£138,984
Secondary School	£139,640
Public Transport Infrastructure	£7,000
Waste Management	£2,752
Museum Resource Centre	£215
Social and Health Care	£3,300
Monitoring Fee	£1,500

Funding is also being sought by the Council for open space sport and recreational facilities, indoor sports, refuse bins and public art. The 6 affordable houses will also form part of the agreement. Discussions are on going with the applicant to conclude an appropriate agreement.

Consultation with applicant

5.30 Good communications were maintained with the applicants' through their agents. As a result the various issues which arose throughout the application process were successfully addressed.

Conclusion

5.31 Based on the assessment above, whilst it is recognised that the proposed development does not accord with development plan policy in respect of housing policy and the loss of part of an employment site, the mitigating factors set out above are nonetheless sufficient to overcome these objections. Great weight is attributed to the fact that this site will be able to contribute to the Council's five year housing land supply position and that the housing will be delivered within this time period.

6. Recommendation

In the event that the Council does not have a five year housing land supply the application is recommend for Approval as set out below. If during the course of the meeting that position changes a further recommendation for deferral is set out below the recommendation below;

Approval, subject to:

- a) The completion of the consultation period,
- b) The applicants entering into an appropriate legal agreement to the satisfaction of your officers to secure the affordable housing, financial and other contributions as outlined in paragraph 5.29 and
- c) the following conditions:
 - 1 That no development shall be commenced until full details of the layout, scale, appearance, access and landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.

Reason - This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 4(1) of the Town and Country Planning (Development Management Procedure)(England) Order 2010.

- 2 That in the case of the reserved matters, application for approval shall be made not later than the expiration of three years beginning with the date of this permission.

Reason - This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 4(1) of the Town and Country Planning (Development Management Procedure)(England) Order 2010.

- 3 That the development to which this permission relates shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last reserved matters to be approved.

Reason - This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 4(1) of the Town and Country Planning (Development Management Procedure)(England) Order 2010.

- 4 Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the Transport Statement produced by TPP Consulting and dated February 2013, the Flood Risk Assessment produced by Dr Paul Garrad and dated December 2012, the Phase 1 Geoenvironmental Desk Study produced by Geotechnical Engineering Ltd and dated 19 December 2011 and approved plan 1550 001 P1.

Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority, and in accordance with Government guidance contained within the National Planning Policy Framework.

- 5 That all the means of access between the land and the highway shall be formed, laid out, constructed and drained in such position(s) and with such vision splays as shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

Reason - In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework.

- 6 That the dwellings shall not exceed a height of 8 metres unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure that the proposed development is in scale and harmony with its neighbours and surroundings and to comply with Policy C28 of the adopted Cherwell Local Plan.

- 7 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.

- 8 Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance a further ecological assessment should be carried out by a suitably qualified person to assess specifically whether watervoles, ditches or watercourses are likely to be affected by the proposed works and in addition assess any impacts on any nearby Local Wildlife Sites or Proposed Local Wildlife sites. The findings, including any mitigation strategy required, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works of mitigation shall be carried out in accordance with the approved details.

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy C2 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

- 9 Prior to the commencement of the development hereby approved, including any demolition, and any works of site clearance, a method statement for enhancing biodiversity on site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.

Reason - To conserve and enhance biodiversity and prevent the spread of non-native species in accordance with Government guidance contained within the National Planning Policy Framework.

- 10 All species used in the planting proposals associated with the development shall be native species of UK provenance. Schemes should not currently include Ash (*Fraxinus excelsior*).

Reason - To conserve and enhance biodiversity and prevent the spread of non-native species in accordance with Government guidance contained within the National Planning Policy Framework.

- 11 No removal of hedgerows, trees or shrubs nor works to, or demolition of buildings or structures that may be used by breeding birds, shall take place between the 1st March and 31st August inclusive, unless the Local

Planning Authority has confirmed in writing that such works can proceed, based on the submission of a recent survey (no older than one month) that has been undertaken by a competent ecologist to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest on the site.

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy C2 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

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

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

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

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

- 14 If remedial works have been identified in condition 13, the development

shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 13. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

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

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

- 16 That a five metre buffer to the east of the watercourse running down the western boundary of the site, as illustrated on the illustrative layout plan 1550 200 P3, shall remain free of any development.

Reason – In order to conserve and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity in accordance with the National Planning Policy Framework.

Planning Notes

- 1 Given the exposed nature of the site, condition 6 seeks to limit the impact on the surrounding landscape.
- 2 Fire and Rescue Service recommends that new dwellings should be constructed with sprinkler systems.

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

The Council, as the local planning authority, has determined this application in accordance with the development plan, unless material considerations indicate otherwise. Incorporating and adhering to the above conditions, the development is

considered to be acceptable on its planning merits as although it would be contrary to the Policy H18 of the adopted Cherwell Local Plan, it would nevertheless comply with Policies TR1, C2, C4, C7, C14, C28, C30, ENV1 and ENV12 of the adopted Cherwell Local Plan and would provide a sustainable form of development, in accordance with Government guidance contained within the National Planning Policy Framework. For the reasons given above and having regard to all other matters raised including third party representations, the Council considers that the application should be approved and outline planning permission granted subject to appropriate conditions as set out above.

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.

In the event that the Council has a five year housing land supply the application is recommended for Deferral as set out below;

Defer

To enable the applicants to provide evidence of the marketing of the site for employment purposes in accordance with NSCLP Policy EMP5 and the emerging Proposed Submission Draft Local Plan Policy SLE1