

**Site Address: 4 The Rookery, Kidlington**

**13/01947/F**

**Ward: Kidlington South**

**District Councillor(s): Cllrs Billington, Emptage  
and Prestidge**

**Case Officer: Tracey Morrissey**

**Recommendation: Approve**

**Applicant: McCarthy & Stone Retirement Lifestyles Ltd**

**Application Description:** Redevelopment to form 31 retirement living apartments including communal areas, car parking and associated landscaping.

**Committee Referral:** Major application

**Committee date:** 03.04.14

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

- 1.1 This application relates to a site occupied by a 1960's single storey dwelling with rooms in the roof, set within an extensive woodland garden of 0.5ha. The site is surrounded by a mixture of residential properties; to the east, late 1960's 2 storey development known as Nurseries Road; to the south and west 1970's 2 storey and single storey development of The Phelps and Grovelands. To the north are older 19th century, traditional, limestone properties, designated as The Rookery Conservation Area, because of their historic significance. There are however no listed buildings in close proximity and the site itself, is not within the Conservation Area. Access is via the tight winding roadway of The Rookery.
- 1.2 The site has recently been cleared of significant tree coverage, especially the large mature Leylandii Cypress trees on the boundaries which dominated The Phelps and Nurseries Road streetscene. None of the trees within the site were protected by TPO's. A 1.8m high close boarded fence also runs along the eastern boundary of Nurseries Road.
- 1.3 This application follows the approval of outline consent for the redevelopment of the site with 11 dwellings with access via The Phelps and Nurseries Road. The scheme now proposed seeks consent for a large 2 - 2½ storey building on the site comprising 31 retirement living apartments and associated communal areas, parking and landscaping. The units consist of 14 no. 2 bedroom and 17 no. 1 bedroom apartments. Car parking for 25 vehicles is proposed to the east of the site at the entrance. Internal storage provision for mobility scooter parking as well as bicycle storage will be incorporated into the scheme.
- 1.4 The site is within 2km of Rushey Meadows SSSI and a site of Archaeological interest. It is not within a designated area of flood risk and therefore no FRA is required. There are no other notable site constraints.
- 1.7 The application has been submitted with D&AS, Planning Statement, Transport Impact and Parking Provision Statement, Tree Survey, Site Investigation Report, Drainage Survey, Extended Phase 1 Habitat survey reports, Statement of Community Involvement and Affordable Housing Statement.
- 1.8 A public exhibition was held on 28<sup>th</sup> November 2013 at the Kidlington Methodist Church and was well attended.

## 2. Application Publicity

2.1 The application has been advertised by way of site notice and neighbour letters. The final date for comment on this application was 6<sup>th</sup> February 2014.

2.2 13 letters of support (full details are available electronically via the Council's website) have been received commenting that:

- Welcome's McCarthy and Stone development rather than other housing as this is much needed and will allow the elderly to downsize and still live in Kidlington
- The gardens will be pleasant to see and no more intrusive trees
- Questions the number of parking spaces available so just hope the traffic predictions and calculations are accurate.
- Would result in a quieter form of housing than previously proposed and less vehicle movements.
- No pedestrian access from The Rookery or The Phelps – suggest a footpath be provided to save walking long distance to Lyne Road or Grovelands bus stops
- Building does not dominate, varying roof lines and heights, the highest being in the centre away from other properties.
- Objector's comments are false and over exaggerated. The contractors were friendly; the work clearing the site was without problems caused by contractors, rather caused by Nurseries Road residents.
- Nurseries Road is the ideal point of access, it is as wide as a lot of the other roads in the vicinity
- There are no parking issues along Nurseries Road

2.3 4 individual letters/emails of objection have been received Full details are available electronically via the Council's website.

The material planning considerations raised as objections are as follows:

- Kerbside parking will impact on surrounding roads, increasing the already chaotic parking issues along the narrow roads of The Phelps and Nurseries Road and will result in hazardous safety problems for pedestrians and other road users.
- Emergency vehicles will struggle to gain access
- Construction vehicles would add to congestion of Crown Road which is already often blocked by cars, vans and HGVs/car transporters behind Audi garage – they should not use this route
- Negative effect on quality of life of residents of The Rookery
- Shocked to see 31 units are now considered acceptable when the previous scheme was reduced because of traffic and too many units.
- Nurseries Road is unsuitable for such a development
- Destruction of environment and impact on Nurseries Road
- Conduct of McCarthy & Stone and its contractors
- Issues over suitability of location for retirement dwellings
- Ecology report is questioned – there isn't that much wildlife
- Double yellow lines should be painted along Nurseries Road

### 3. Consultations

3.1 Kidlington Parish Council – object on the following grounds:

- Overlooking to properties on The Phelps
- Inadequate parking

#### **Cherwell District Council Consultees**

3.2 Ecologist – The majority of the site has already been cleared, but the mature trees and garden that were previously present would have provided good wildlife habitat, in particular for bats, birds and hedgehogs. The bungalow proposed for demolition was not checked for the presence of bats but appears to have a low likelihood of supporting them. Given what has been lost, I consider that the following ecological enhancements should be provided as a minimum:

The provision of bat boxes incorporated within the new building (on a suitable aspect) and on any suitable mature trees.

The provision of bird nesting boxes on suitable trees around the site.

The provision of a hedgehog house within the site.

Integral bat boxes built into the new building are preferable to externally mounted ones as they require no maintenance, present no safety hazard and should last the lifetime of the building.

Therefore an enhancement condition should be attached to any permission:

3.3 Arboriculture officer – Despite concerns raised with recent tree felling, I am able to confirm that subject to condition, I have no arboricultural objections to the proposal. Due to the requirement of tree protection including fencing in accordance with BS5837 and no-dig footpaths across the RPA of retained trees, it will be necessary to condition the provision of both an arboricultural method statement and on-site arboricultural supervision.

The landscaping layout appear to be adequate however, I can see no details regarding plant/tree species quantities, sizes, spacings or planting pit specifications, all of which must be provided within a revised scheme.

3.4 Environmental Protection Officer - Land contamination may be an issue depending on any former potentially polluting activities that may have been undertaken from the site or even possible elevated levels of natural occurring contamination such as arsenic.

It is noted that in July 2013, a site desk top study and contamination risk assessment was been carried out by Crossfield Consulting on behalf of the applicant (Report no CCL02373.BR81).

The report concluded that there is no pollutant linkage requiring further consideration on the above site.

We would however recommend a precautionary condition be appended should the Local Planning Authority be minded to approve this application.

- 3.5 Housing Officer - I have no objection to the redevelopment of this site and the proposed delivery of retirement housing in this location.

This, being a C3 development would require 35% affordable housing requirement, amounting to 9 units.

In this case I would request an off-site affordable housing contribution in lieu of units on site, for the following reasons.

The Council have recently secured the delivery of an extra care scheme in Yarnton which was completed in November 2013 and another Extra Care scheme in Kidlington which will be completed in March 2015. Both of which were 100% affordable housing schemes. This together with the fact that the proposed scheme is likely to be unaffordable to those residents nominated from the Councils housing register due to the high service charges incurred or likely to be incurred from such as scheme.

It is recommended that discussions surrounding the off-site contribution should take place between council representatives and that of the applicant.

- 3.6 Landscape (urban and rural services) – The proposal retains the best existing trees, which is to be welcome. I suggest removing the very narrow strip of planting on the side of parking bay 01 as it is too narrow to grow anything in.

There won't be any requirement for play facilities and the applicant is proposing providing informal open space for the enjoyment of residents.

- 3.7 Waste Collection Manager – Content with the waste storage size provision. Section 106 contribution of £67.50 per property will also be required.

### **Oxfordshire County Council Consultees**

- 3.8 Highways – No objection in principle subject to conditions. Contributions will be sought towards OCC services and infrastructure to mitigate the impacts of the proposed development. A transport developer funding contribution of £6,000 (index-linked) is requested in line with Cherwell District Council Planning Obligations SPD for the provision of a new bus shelter at the Chorefields bus stop on the northern side of Lyne Road.

- The application proposes to provide 31 sheltered housing accommodation units for the elderly. The site has extant planning approval for 11 dwellings.
- The transport impact of the proposed development is unlikely to be severe, under the terms of the National Planning Policy Framework.
- This site is well located for access to local amenities and bus services, being within 400 metres of Kidlington village centre and bus stops on Lyne Road. The new development would benefit from a new bus shelter in the vicinity.
- A surface water strategy / design is required and must be submitted and approved prior to commencement of the development. To make sure adjacent land / properties or the developed building are not at risk of flooding as a result of the development.

Some layout amendments are required to ensure that adequate car parking

and turning space for servicing vehicles is provided onsite.

Amendment submitted – further comments are awaited

- 3.9 Property - wishes to secure a legal agreement for appropriate financial contributions. Details are provided in the relevant S106 section further in the report.
- 3.10 Drainage - Discharge rate from the attenuation tank into the public surface water sewer needs to be agreed with Thames Water prior to commencement of the development. How is surface water going to enter the attenuation tank from the site developments? Will it be taking surface water from the driveways?

Further clarification was sought and has been received – further comments are awaited.

#### **Other consultees**

- 3.11 Natural England - The proposal does not affect Statutory Protected sites or landscapes or have a significant impact on the conservation of soils not is the proposal EIA development. Refer to Standing Advice in respect to protected species and species protected by domestic legislation. The scheme provides an opportunity to provide enhancement measures.
- 3.12 TVP Crime Prevention Officer - The only advice I can offer at this juncture is to refer the applicants to the principles and standards of the Association of Chief Police Officers (ACPO) crime prevention initiative for the built environment, Secured by Design (SBD). I urge them to incorporate said principles etc within the proposals and to contact me as soon as possible so that they may be advised on how to achieve this.
- 3.13 Thames Water – On the basis of information provided, Thames Water would advise that with regard to water infrastructure capacity, we would not have any objection to the above planning application.

Thames Water recommends the following informative be attached to this planning permission. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

- 3.14 Environment Agency – Low risk development and therefore no comments to make

#### **4. Relevant National and Local Policy and Guidance Policy Considerations**

- 4.1 Adopted Cherwell Local Plan (Saved Policies) (ACLPL)  
H5: Affordable housing  
C2: Development affecting protected species  
C4 Creation of new habitats  
C7: Landscape conservation  
C23: Retention of buildings, walls and trees  
C28: Layout, design and external appearance of new development  
C30: Design of new residential development  
C31: Compatibility of proposals in residential areas

TR1: Transportation funding

Non-Statutory Cherwell Local Plan

H1a: Location of new housing

H3: Making efficient use of land

H4: Types/variety of housing

H7: Affordable Housing

TR2: Traffic generation

TR4: Transport mitigation measures

EN1: Impact on natural and built environment

EN22: Nature conservation and mitigation

EN25: Development affecting legally protected species

EN40: Preservation and or enhancement of Conservation Areas

D1: Urban design objectives

D2: Design statements

D3: Local distinctiveness

D9: Energy Efficient design

OA1: General Infrastructure policy

#### 4.2 **Other Material Policy and Guidance**

National Planning Policy Framework

Planning Practice Guidance

Submission Cherwell Local Plan – January 2014

The Submission Local Plan (January 2014) has now been through public consultation and was submitted for examination in January 2014, although this plan does not have Development Plan status, it is 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:

BSC1: District Wide Housing Distribution

BSC2: The Effective & Efficient Use of Land - Brownfield land & Housing Density

BSC3: Affordable Housing

BSC4: Housing Mix

ESD3: Sustainable Construction

ESD6: Sustainable Flood Risk Management

ESD7: Sustainable Drainage Systems

ESD10: Protection & Enhancement of Biodiversity & the Natural Environment

ESD16: The Character of the Built & Historic Environment

Policy Villages 1: Village Categorisation A

INF1: Infrastructure

## 5. Appraisal

5.1 The key issues for consideration in this application are:

- History
- Policy Context
- Five Year Supply of Housing
- Design and principle of development
- Access and highway safety
- Neighbour impact
- Trees
- Ecology
- Planning Obligations/infrastructure contributions

### History

- 5.2 12/00460/OUT O/L – 14 residential dwellings with associated road, infrastructure, parking and garaging. Refused
- 12/01321/OUT O/L – site redevelopment of 11 residential dwellings with associated road infrastructure, parking and garaging (resubmission of 12/00460/OUT) Approved

### Policy Context

5.3 The development plan for Cherwell comprises the saved policies in the adopted Cherwell Local Plan 1996. Section 70(2) of the Town and Country Planning Act 1990 provides that in dealing with applications for planning permission the local planning authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations. Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the development plan unless material planning considerations indicate otherwise.

5.4 The NPPF sets out the economic, social and environmental roles of planning in seeking to achieve sustainable development: contributing to building a strong, responsive and competitive economy; supporting strong, vibrant and healthy communities; and contributing to protecting and enhancing our natural, built and historic environment (para' 7). It also provides (para' 17) a set of core planning principles which, amongst other things, require planning to:

- Be genuinely plan led, empowering local people to shape their surroundings and to provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency
- proactively drive and support sustainable economic development
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- support the transition to a low carbon future in a changing climate
- encourage the effective use of land by reusing land that has been previously developed
- promote mixed use developments
- conserve heritage assets in a manner appropriate to their significance
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations

- which are of can be made sustainable; and
  - deliver sufficient community and cultural facilities and services to meet local needs
- 5.5 The Framework at paragraph 14 states ‘At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking...for decision taking this means<sup>1</sup>:
- approving development proposals that accord with the development plan without delay; and
  - where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
  - any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted<sup>2</sup>
- 5.6 Paragraph 35 of the NPPF states that developments should be located and designed where practical to create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians.
- 5.7 Paragraph 50 of the NPPF requires that “local authorities plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes)”. Older people are defined as in Annex 2 – Glossary of the NPPF as “people over retirement age, including the active, newly-retired through to the very frail elderly, whose housing needs can encompass accessible, adaptable general needs housing for those looking to downsize from family housing and the full range of retirement and specialised housing for those with support or care needs”.
- 5.8 In terms of the site’s current use, Paragraph 53 advises that where harm is caused to the local area, the inappropriate development of residential gardens should be resisted.
- 5.9 Policies C28 and C30 of the adopted Cherwell Local Plan relate to all new development and seeks to ensure that it is sympathetic to its context, and the nature, size and prominence of the development proposed, and are compatible with the appearance, character, layout and scale of existing dwellings in the locality and street scene in general.

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<sup>1</sup> Unless material considerations indicate otherwise.

<sup>2</sup> For example, those policies relating to sites protected under the Birds and Habitats Directives and/or designated as Sites of Specific Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast, or within a National Park; designated heritage assets and locations at risk of flooding or coastal erosion.



- 5.10 Policy D1 of the Non-Statutory Cherwell Local Plan 2011 sets out the Council's urban design objectives which seek to ensure that development is compatible with the site's context in terms of its scale, density, massing, height and layout. Whilst Policy D3 seeks to ensure that development reflects or interprets the local distinctive character of the site and its context, by respecting traditional patterns of arrangement, plots and their buildings and spaces and retention and enhancement of existing open spaces and undeveloped gaps of local importance that contribute positively in visual terms to the public realm. The scale, proportion, massing and height of proposed development should be considered in relations to that of adjoining buildings.
- 5.11 Furthermore Policy D6 refers to the consideration of development in design terms which should be compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity and also that it provides standards of amenity and privacy acceptable to the Council.
- 5.12 There is no specific policy in the adopted Cherwell Local Plan that relates to housing development within the built up limits of Kidlington. Emerging Submission Local Plan Policy Villages 1 identifies Kidlington as a Category A village, which is suitable for minor development, infilling and conversions based on its population size, number and range of services, accessibility and employment opportunities. Therefore providing that all other material considerations are taken into account and no relative harm exists, the principle of development is generally considered to be acceptable.
- 5.13 In terms of other relevant policies in the emerging Local Plan, Policy ESD16: The Character of the Built and Historic Environment. The site is within an existing residential very close to the village centre and its range of shops and services and public transport network. The site however abuts The Rookery Conservation Area of the wider Kidlington Conservation Area. The policy seeks to protect the significance of heritage assets and ensure that development respects the historic context.
- 5.14 With regard to sustainability, the site is short walk to the village centre and there is a good bus service from stops in close proximity. In transport terms therefore the site can be defined as sustainable. However, the NPPF also recognises in paragraph 7 that sustainability has several strands other than just the transport aspect. These are economic, social and environmental in its broadest sense.
- 5.15 In terms of the economic benefits, the proposed development would create jobs both directly and indirectly. Socially the proposed development would provide specialist accommodation for older people, giving older people housing choice to help maintain their independence, remain within an inclusive community and reduce pressure on health care facilities. Environmental benefits include making effective and efficient use of a large site within the village and its enhancement for the wider area. It is considered that the proposed development fulfils the requirements of paragraph 7 of the Framework and can be considered to be sustainable.
- Five Year Supply of Housing**
- 5.16 LPAs are required to boost significantly the supply of housing by meeting assessed needs and identifying key sites critical to the delivery of the housing strategy over

the plan period (para' 47 of the Framework).

- 5.17 They are expected 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% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land” (para' 47).

The Council has acknowledged that it has a deficit of housing supply for the 5 year period and also that it is a 20% authority.

- 5.18 Paragraph 49 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”.

- 5.19 The district’s housing land supply position was updated in December 2013 in the Annual Monitoring Report 2012/13. The calculation as at 31 March 2013 uses the Sedgfield method for taking into account the shortfall in supply from previous years. The calculation which includes a 20% buffer shows that the Authority has a 4.7 years housing supply. This calculation takes into account the appeals detailed below for housing in the district which have been granted since the 31 March 2013.

- 5.20 Given the shortfall in the five year housing land supply position, Paragraphs 14 and 49 of the NPPF are engaged. The Local Plan is out of date in respect to housing policies and the overarching test for assessing whether to grant planning permission is whether any disadvantages, not just materially but significantly and demonstrably outweigh the benefits. The benefits of the scheme include the provision of housing for the elderly in a sustainable location, contributing to the Council’s HLS deficit and developer contributions to infrastructure and services in the locality.

- 5.21 Notwithstanding the benefits and the status of the housing policies in the ACLP and emerging Local Plan, the fourth point made at Paragraph 14 of the Framework for decision taking advises that “where the development plan is 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, when assessed against the policies in this Framework taken as a whole;

It is therefore necessary to consider if the development of the land would give rise to significant harm and adverse impacts that demonstrably outweigh the benefits.

#### **Design and principle of development**

- 5.22 It is considered that taking into account the above policies, site history and key issues detailed the site is capable in principle of redevelopment. The main issue, however when considering this current application over the previous scheme is whether there would be significant harm through the provision of a building containing 31 apartments and associated areas, instead of 11 houses.

- 5.23 The proposal seeks consent for a single block accommodation building, largely two storey with elements of single and 2½ storey (rooms in the roof) of varying heights, ridge and eave heights and materials. The variation of the storey height and articulation of the footprint, create a number of massing elements which coalesce to form an interesting three dimensional composition. The roof is broken up by gables and dormers and provision of chimney detail giving the building a domesticated appearance. Windows are recessed within the roofslope and direct overlooking from other windows to neighbouring properties is minimal. Some apartments have balcony features which are angled such that direct overlooking would not occur to neighbours through a mixture of oblique angles of views, existing and proposed planting as well as distances.
- 5.24 The form of accommodation comprises 17 x 1-bed and 14 x 2-bed retirement living apartments, providing housing for elderly residents along with associated communal rooms, scooter store, kitchen and laundry rooms.
- 5.25 The proposed layout of the development provides:
- Landscaped gardens and zones adjacent to the boundaries
  - Respectable distances to neighbouring properties to avoid overlooking, loss of privacy and overbearing and overshadowing effects
  - Quality design and architecture respectful of its context
  - Retention of good trees and provision of further trees to complement the landscaping of the site.
  - Vehicular and pedestrian access from Nurseries Road
  - 25 car parking spaces
  - Palette of materials sympathetic to the locality
  - Sustainable design strategy through energy sources and consumption, waste management and recycling, construction methods and where feasible, locally sourced materials
- 5.26 The previous outline scheme for 11 dwellings attracted a significant level of objection on various grounds but was considered acceptable in principle with appearance of properties reserved to a later stage. This scheme has received some objection but the majority of comments made are in general support for the scheme.
- 5.27 The site abuts The Rookery Conservation Area and some glimpses of the site are possible from gaps in between houses, but the properties along The Rookery are traditional frontage buildings, the road itself is narrow and therefore I am of the opinion that views from The Rookery are limited. The building proposed is domestic in scale and would not in your officer's opinion cause undue harm to the setting of the heritage asset. It is considered that the proposal is respectful of its context and provides a form of development that would integrate successfully into the streetscene and established residential form of this part of Kidlington.
- 5.28 Consequently it is considered that the principle of development on this site and the design of the building and its layout is acceptable and complies with the relevant development plan policies requiring quality homes and good design respectful of its context.

#### **Access and highway safety**

- 5.29 The means of access into the site is off Nurseries Road only, the existing access from The Rookery is to be closed off to vehicles and the previous scheme sought access from Nurseries Road and The Phelps. Comments have been received from local residents regarding parking problems along Nurseries Road, however, Oxfordshire County Council, as Local Highway Authority considers that the proposal in respect to access, parking and highway safety is acceptable in principle, subject to a revised parking layout and conditions. The revised parking layout has been submitted, comments are awaited from OCC in this regard but essentially, parking spaces were too small.
- 5.30 The applicant has provided a robust report on Transport impact and parking provision, which has been accepted in principle by OCC, this report is essentially based on experience of other McCarthy & Stone developments in the country which finds that the development “would be likely to have a very limited impact on the adjoining highway network. It is likely to generate a higher level of traffic onto Nurseries Road than the extant outline consent, but this would be spread through the day and not concentrated at peak times and would therefore be very unlikely to cause any significant problems. The parking demand would be controlled by the issuing of parking permits for residents, 25 spaces are considered appropriate for this location”.
- 5.31 It is considered that subject to the acceptability of the revised parking layout the proposal is acceptable in highway safety terms and complies with the guidance contained within the NPPF.

#### **Neighbour impact**

- 5.32 It is considered that the majority of the concerns raised by neighbours has been addressed in the above assessment, but generally there is support for the proposal and no comments from objector specifically refer to loss of privacy from overlooking or impact on their amenity from the building itself. The majority of comments relate to parking provision and issues of parking on Nurseries Road. It is therefore considered that the proposal is acceptable with regards to neighbour’s impact and would not result in loss of amenity or privacy and complies with Policy C30 of the ACLP and guidance contained within the NPPF.

#### **Trees**

- 5.33 The site was previously enclosed by mature conifers/trees, but there still are a number of individual trees of significant value, the retention of a mature Copper Beech close to the entrance will further enhance the site and would benefit the neighbouring properties along Nurseries Road. Furthermore, the development provides the opportunity to create the necessary wildlife mitigation and enhancement measures suggested by the Council’s Ecologist.

#### **Ecology**

- 5.34 NPPF – Conserving and enhancing the natural environment requires that “the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures” (para 109)
- 5.35 Paragraphs 192 and 193 further add that “The right information is crucial to good decision-taking, particularly where formal assessments are required (such as

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

- 5.36 Paragraph 18 states that "When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principle:
- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused"
- 5.37 Paragraph. 98 of Circular 06/05: Biodiversity and Geological Conservation – statutory obligations and their impact within the planning system states that, "local planning authorities should consult Natural England before granting planning permission" and paragraph 99 goes onto advise that "it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision."
- 5.38 Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC 2006) states that "every public authority must in exercising its functions, must have regard ... to the purpose of conserving (including restoring / enhancing) biodiversity" and;
- Local planning authorities must also have regards to the requirements of the EC Habitats Directive when determining a planning application where European Protected Species (EPS) are affected, as prescribed in Regulation 9(5) of Conservation Regulations 2010, which states that "a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions".
- 5.39 The Council's Ecologist has considered the submitted ecology report and is satisfied that the development would not have an adverse impact on any protected species, subject to enhancement measures to be secured through condition.
- 5.40 Consequently it is considered that art.12(1) of the EC Habitats Directive has been duly considered in that the welfare of any protected species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development. The proposal therefore accords with the Framework and

Policy C2 and C4 of the ACLP.

### **Infrastructure contributions**

5.41 The draft Supplementary Planning Document (SPD) relating to the requirement for financial contributions towards infrastructure or service requirements was considered by the Council's Executive Committee on 23 May 2011 and was approved as interim guidance for development control purposes. Consultation is to take place shortly.

5.42 New development often creates a need for additional infrastructure or improved community services and facilities, without which there could be a detrimental effect on local amenity and the quality of the environment. National planning policy sets out the principle that applicants may reasonably be expected to provide, pay for, or contribute towards the cost, of all or part of the additional infrastructure/service provision that would not have been necessary but for their development. Planning Obligations are the mechanism used to secure these measures.

5.43 Cherwell District Council  
35% affordable housing – off site provision sought and is subject to further negotiation in respect to viability.

Refuse bins and recycling banks – contribution of £67.50 p/dwelling sought, the amount of bins are being negotiated.

CDC Admin and Monitoring fee – £650

### Oxfordshire County Council

General Transport and Access impacts - £6,000 for a new bus shelter at the Chorefields bus stop on the northern side of Lyne Road.

Museum resource centre - £215

Strategic Waste Management - £2,496

Social & Health Care - £42,900

OCC Admin and Monitoring fee – £1500

5.44 The S106 negotiations are ongoing however the applicant is in principle agreeable to those contributions that are compliant the Community Infrastructure Levy Regulations (CIL) 122. It is therefore requested that Members delegate to Officers the negotiation of the S106 agreement.

### **Other Matters**

5.45 It is considered that the majority of the third party representations issues and concerns have been addressed in the preceding report, however in response to the comments made by local residents, such as the views from private properties an impact on their value; these are not material to the consideration of the application.

### **Engagement**

5.46 With regard to the duty set out in paragraphs 186 and 187 of the Framework, there have been a number of discussions with regard to various issues arising from the application and officers have sought to address these throughout the application process, by working with the applicants. It is considered that the duty to be positive and proactive has been discharged through consistent negotiation and discussion

with the applicants over the course of the application process.

### **Conclusion**

- 5.47 The determination of this application has to be balanced against the advice in paragraph 14 of the NPPF which sets out the presumption in favour of sustainable development, which should be seen as a “golden thread” running through both plan-making and decision taking. It states that for decision taking this means:
- Approving development proposals that accord with the development plan without delay; and
  - Where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole, or specific policies in the framework indicate development should be restricted.
- 5.48 Whilst there are no adopted local plan housing policies specific to Kidlington, it is considered that the principle of development on this site has been accepted through the preceding permission for 11 residential dwellings. The proposal seeks to increase the number of units to 31 within a single building and specifically for the elderly, it too is considered to be an acceptable form of development in principle. Given the out of date local plan housing policies and that the Council cannot demonstrate 5 year HLS of paragraphs 14 and 49 of the Framework are engaged. Paragraph 14 of the Framework also makes it clear that permission should be granted unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
- 5.49 In respect to any adverse impacts, the site is not within a Conservation Area nor is it close to any listed buildings but it does abut the Conservation Area and is within an existing residential area, the character of which is varied. It is considered that the proposal does not give rise to undue harm to the significance of heritage assets. The proposal seeks access via a road through the residential area and provides visibility splays acceptable to the local highway authority. The issues raised by local residents with regards to parking and increase in traffic along Nurseries Road is noted, however the amount of parking provision is considered acceptable given the nature of the housing sought. The building itself is domestic in character, appearance and scale and provides good landscaping throughout the site and ensures that harm to neighbouring properties amenities is not unduly compromised through its considerate design, orientation and positioning. The site is close to local facilities, services and accessibility through public transport, therefore is considered to be in a sustainable location.
- 5.50 On balance, taking into account the assessment above and the comments and concerns made by all third party interests, the proposal is an acceptable form of sustainable development and in accordance with Paragraph 14 of the Framework, any adverse impacts of such a development do not significantly and demonstrably outweigh the benefits that the housing would bring to the village.

## **6. Recommendation**

**Approval** subject to:

a) The applicant entering into an appropriate legal agreement to the satisfaction of the District Council to secure the obligations and financial contributions as outlined in paragraph 5.45 above

b) The following conditions:

1. 3 year time commencement

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: application forms, design, access and sustainability statement, site location plan and drawing numbers 10-1937-101A received 14.03.14 and 10-1937-102, 103, 104A, 105, 106A, 107A, 108 and MCCA 259/4-001B submitted with the application.

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

3. That the external walls and roof(s) of the development hereby approved shall be constructed in accordance with the schedule of materials and finishes detailed on page 35 of the Design, Access and Sustainability Statement submitted with the application.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

4. That prior to commencement of any development on the site, an Arboricultural Method Statement (AMS), undertaken in accordance with BS5837:2012(as revised) shall be submitted and approved in writing by the Local Planning Authority. Thereafter all works on site shall be undertaken in accordance with the agreed document.

Reason – To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

5. a) No retained tree shall be cut down, uprooted, damaged or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. All tree works shall be carried out in accordance with BS3998: Recommendations for Tree Works.

b) If any retained tree is cut down, uprooted, destroyed or dies, another tree shall be planted in the same place in the next planting season following the removal of that tree, full details of which shall be firstly submitted to and approved in writing by the Local Planning Authority.

In this condition a “retained tree” is an existing tree which shall be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) shall



have effect until the expiration of five years from the date of the decision notice.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

6. Prior to the commencement of the development hereby approved, full details of a scheme of supervision for the arboricultural protection measures, to include the requirements set out in a) to e) below, and which is appropriate for the scale and duration of the development works, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the arboricultural protection measures shall be carried out in accordance with the approved details.
  - a) Written confirmation of the contact details of the project arboriculturalist employed to undertake the supervisory role of relevant arboricultural issues.
  - b) The relevant persons/contractors to be briefed by the project arboriculturalist on all on-site tree related matters
  - c) The timing and methodology of scheduled site monitoring visits to be undertaken by the project arboriculturalist.
  - d) The procedures for notifying and communicating with the Local Planning Authority when dealing with unforeseen variations to the agreed tree works and arboricultural incidents
  - e) Details of appropriate supervision for the installation of load-bearing 'structural cell' planting pits and/or associated features such as irrigation systems, root barriers and surface requirements (eg: reduced dig systems, arboresin, tree grills)

Reason – To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

7. Prior to the commencement of the development hereby approved, full details of all service trenches, pipe runs or drains and any other excavation, earth movement or mounding required in connection with the development, including the identification and location of all existing and proposed trees, shrubs and hedgerows within influencing distance of such services, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.

Reason – To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

8. All planting, seeding or turfing comprised in the approved details of landscaping (drawing no. MCCA 259/4-001B) shall be carried out in accordance with BS

4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner, unless otherwise agreed in writing by the Local Planning Authority. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

9. Drainage condition to be agreed with OCC.
10. The development hereby permitted shall be carried out in accordance with the recommendations set out in Extended Phase 1 Habitat Survey Report by Marishal Thompson Group dated 6<sup>th</sup> December 2013 and the mitigation plan submitted on 14.03.14, unless otherwise agreed in writing by the Local Planning Authority.

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.

11. That the enclosures along all boundaries and within the site shall be erected prior to the first occupation of the development and in accordance with drawing no. MCCA 259/4-00, unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure the satisfactory appearance of the completed development, to safeguard the privacy of the occupants of the existing and proposed dwellings and to comply with Policies C28 and C30 of the adopted Cherwell Local Plan.

12. Prior to the commencement of the development hereby approved, full details of the means of access between the land and the highway, including, position, layout, construction, drainage and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the means of access shall be constructed and retained in accordance with the approved details.

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

13. Prior to the first use of the access hereby approved, the existing access onto The Rookery shall be permanently stopped up in accordance with details to be submitted and approved in writing by the Local Planning Authority, prior to the first occupation of the development and shall not be used by any vehicular traffic whatsoever.

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

14. Prior to the commencement of the development hereby approved, and notwithstanding the application details, full details of refuse, fire tender and

pantehnicon turning within the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.

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

15. Prior to the first occupation of the development hereby approved, the parking and manoeuvring areas shall be provided in accordance with the plan approved and shall be constructed from porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the site. Thereafter, the parking and manoeuvring area shall be retained in accordance with this condition and shall be unobstructed except for the parking and manoeuvring of vehicles at all times.

Reason - In the interests of highway safety, to ensure the provision of off-street car parking and to comply with Government guidance contained within the National Planning Policy Framework.

16. Prior to the commencement of development, a Construction Traffic Management Plan (CTMP) shall be submitted to, and approved in writing by, the Local Planning Authority. The construction works must be carried out in accordance with the details approved in the construction traffic management plan.

Reason - In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding highway network, road infrastructure and local residents, particularly at morning and afternoon peak traffic times and to comply with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

17. Prior to the commencement of the development, a Construction Environment Management Plan (CEMP), which shall include details of the measures to be taken to ensure construction works do not adversely affect residential properties on, adjacent to or surrounding the site together with details of the consultation and communication to be carried out with local residents shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with approved CEMP.

Reason - To ensure the environment is protected during construction in accordance with Policy ENV1 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

18. 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.

**Planning Notes**

1. Archaeology
2. Thames Water informatives
3. Ecology
4. Construction sites
5. Works within the Highway

**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