

**Site Address: Yarnton Nurseries, Sandy Lane, Yarnton**

**14/00191/OUT**

**Ward:** Yarnton, Gosford and Water Eaton

**District Councillor:** Councillors Gibbard and Stevens

**Case Officer:** Caroline Ford

**Recommendation:** Refusal

**Applicant:** Yarnton Nurseries LLP

**Application Description:** Outline: Alterations to existing garden centre and development of 14 new dwellings including access

**Committee Referral:** Major

**Committee Date:** 03 April 2014

**1. Site Description and Proposed Development**

- 1.1 Yarnton Nurseries is situated to the north of Yarnton on the east side of the A44 with access off Sandy Lane. The site is bounded by housing fronting onto Sandy Lane to its southern boundary, some housing to its western boundary fronting onto the Woodstock Road and the rest of the western, northern and eastern boundaries face onto open countryside with a high hedge boundary. The red line site area extends to 3.6ha.
- 1.2 On site currently is the main garden centre/ nursery building, which is centrally sited but off set to the west of the site. It also contains a number of concessions within it. To the north of the main building is the Adrian White Building Supplies company and to the north of this is an open space, which contains some items of storage. To the south of the main building are the buildings and structures which form the show room for 'Yarnton Leisure Buildings Ltd' and which consist of for example sheds, summer houses and conservatories. One residential dwelling (17 Sandy Lane) falls within the application site and is proposed to be demolished. The rest of the land to the east and south of the site is used for car parking.
- 1.3 The site is situated fully within the Oxford Green Belt (the boundary runs along the rear gardens of the residential dwellings to the south and west and so the access road is not in the Green Belt). The site has the potential for having some ecological potential (the Rushey Meadows SSSI is within 2km and bird species having been recorded nearby). The site is also within a high potential area for including archaeological interest, and also has the potential to be contaminated.
- 1.4 The application seeks outline planning permission for alterations to the existing nursery/ garden centre building and for the construction of 14. no dwellings. All matters are reserved save for the means of access which is to be determined at this stage.
- 1.5 Whilst the proposal is in outline only, indicative plans have been submitted demonstrating the proposed dwellings positioned to the south of the site on part of the existing car park area. A suggested layout has been submitted resulting in a cul de sac arrangement and dwellings being detached and semi detached with two, three and four bedrooms. Indicative elevations and floor plans of the dwellings have also been submitted. A Local Area of Play (LAP) of 102m<sup>2</sup> with a 5% buffer is also to be provided. 35% of the dwellings would be affordable.
- 1.6 There is a significant amount of planning history relating to the site which is set out on the file. Where relevant this will be explored within the appraisal section of this report. The most recent planning history is as follows:

- 99/02246/F (Permitted) Site for seasonal storage of compost/ soils; overspill car park (retrospective)
- 99/02247/F (Permitted) Relocation of hard landscape supplies office. Retention of portakabin toilet
- 02/00669/F (Permitted) Proposed polytunnel to provide covered area to existing sales space
- 05/01732/F (Permitted) Extension to form entrance and covered walkway
- 07/01917/OBL Modification of Section 106 of CHS.182/92 to allow the continued use of garden centre including use by a security firm, swimming pool business and conservatory franchises and hard landscaping business (retrospective)
- 08/00131/CLUE (Permitted) Certificate of lawfulness existing – use of part of the covered garden centre area for the sale of antiques, collectables and bric-a-brac
- 08/00202/F (Permitted) Retention of service access road and proposed vehicular turning area
- 08/00203/F (Permitted) Retention of Adrian White's Business Supplies area and new office building; proposed use of south east corner of site for an extension to existing car parking area; retention of staff room and extension to pets department building; retention of external display area in connection with Shirley Aquatics; retention of polytunnel cover in connection with internal display area to Shirley Aquatics; retention of customer toilets; retention of antiques centre (the part additional to the linked application for certificate of lawfulness for existing use for the antiques centre); retention of 2 no. oil tanks and 1 no. water tank
- 12/01135/OUT (Withdrawn) Outline – Alterations to the existing nursery and garden centre and development of 43 no. dwellings including access
- 13/01607/OUT (Withdrawn) Outline -Alterations to the existing nursery and garden centre and development of 12 new dwellings including access

## **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 13th March 2014.

11 letters have been received. The following issues were raised:

The development is intrusive and partially on Green Belt land

Proposal is inappropriate development in the Green Belt and the Council have a duty to protect the Green Belt and its open character and not allow it to be eroded

There are no special circumstances to allow this development

The nursery is constructed of temporary buildings; however this should not indicate that the land is now brownfield land.

The Nursery driveway is currently private and should not be made into a public road

No provision to enable safe walking and cycling access to the rest of the village and its services  
Large lorries already cause problems in Sandy Lane, which is narrow  
Use of the access by visitors, lorries and residents of the dwellings would be incompatible causing safety risks  
Additional pressure on Sandy Lane which is unsuitable  
Already several traffic incidents have occurred and the proposal would increase potential for accidents  
Safety concern for children accessing the site  
Large visitor numbers currently cause pollution  
Walking and cycling along Sandy Lane is not possible and there is a lack of pavements  
Access to the site should be considered from the North (via the access to Begbroke Science Park)  
The proposed form of the development is out of keeping with the character of the existing residential area and is a more dense form of development  
Loss of the mature trees and their replacement with an immature hedge and small trees will result in overlooking, a loss of wildlife habitat and the removal of a hedgerow that contributes positively to the character of the area  
Loss of privacy and overlooking  
Impact of intensified use of driveway on the amenity of neighbours including increased noise  
Noise pollution to the proposed occupiers  
Problems with flooding and sewerage already experienced and the proposal would make these problems worse  
Village amenities are already under pressure  
Yarnton village only needs to find space for 100 houses in the next 20 years.  
Inadequate provision for recreation space  
As a previous proposal for a larger number of dwellings was made, is this proposal the start of a much larger proposal?  
Proposal is contrary to various Local Plan policies  
If the Garden Centre site wholly became a site for housing, then this would take away a valuable source of employment in the area.

#### **Oxford Green Belt Network:**

Object as the proposed development would be contrary to Green Belt policy as set out both in national guidance and in Cherwell's own plans.

What is proposed would have the effect of extending the built up area of Yarnton beyond the inset area of the village and into the Green Belt. It would therefore be contrary to one of the five basic purposes of Green Belt policy, which seeks to prevent encroachment into the countryside. Housing development on the site proposed would not amount to infill and does not therefore come within the category of development that might be considered appropriate according to paragraph 89 of the NPPF dealing with limited infilling. It is concluded that what is proposed must be regarded as inappropriate development in the Green Belt, reducing its openness and harmful to its purposes. In the opinion of Oxford Green Belt Network there are no very special circumstances to support the application which appears to us to be an enabling development to fund the rebuilding of the garden centre.

Consider that what is proposed would also be contrary to Cherwell District Council's own policies. Policy ESD14 of the recently submitted Local Plan refers to maintaining existing Green Belt boundaries, whilst paragraph B256 observes that there are no exceptional circumstances that would justify local reviews of the Green Belt to meet local housing need. The Government has agreed that a submitted Local Plan, even if it has not been through examination and been formally adopted, should carry weight in determining planning applications since it clearly represents what the local authority

wishes to see happen, or not happen as the case might be. The suggestion by the applicant that the site has been designated for housing in Cherwell's Local Plan (conclusion to Design & Access Statement) is challenged. Suggestions in the accompanying documents that the site is brownfield. This is questioned since it appears that part is grassland and part is a gravelled area currently used for car parking. For the same reason, the view that covering the area with housing would somehow increase permeability and reduce run-off is questioned. Finally it is surprising that it has been possible for the applicant to submit as many as three successive outline applications. It is thought that an application that is in the Green Belt and is contrary to local planning policy would require a full application. There is a danger that the public become confused by a series of similar applications. Last week the Oxford Times carried a report that the Nurseries' application had been withdrawn. This must have referred to 13/01607/OUT, but that was not made clear, so that readers could well have assumed that the present application was withdrawn and so refrain from commenting.

**Oxford Preservation Trust:**

Object as the proposal continues to ignore the National and Local Planning Policy which states that building in Green Belts should only happen in 'exceptional circumstances.' This site has seen a number of previous applications and this one still fails to make the case for how the development of this site fulfils this criterion. Yarnton village has been allocated for minor development in the Cherwell District Council Local Plan (2006-2031), however these policies exclude the areas that fall in the Green Belt. In addition the proposal for 14 houses is too large to be considered as the acceptable infill therefore contravenes the Green Belt Policy as set out in the proposed Local Plan. As part of this Cherwell DC have confirmed that there is sufficient housing without recourse to revising the boundaries of the Green Belt and there is no reference made to this site.

**CPRE Oxfordshire (Bicester District):**

Object to the proposal. The site lies within a sensitive area of the Green Belt where development of the sort proposed is likely to increase the potential coalescence of Yarnton and Begbroke. Consider it is an inappropriate use of the Green Belt as detailed within the NPPF and Policy ESD14 of the emerging Local Plan, both of which are clear on the matter.

### **3. Consultations**

**3.1 Yarnton Parish Council:** Objects to the proposal on the following grounds:

1. Further residential development will add to the burden on inadequate sewerage pumping repeatedly affecting residents in the central village area.
2. The proposal represents increasing sprawl of the residential envelope of Yarnton village.
3. The proposed development stated as being "brown field site" is within the Oxford Green Belt map.
4. The proposal is insensitive to prospective home owners being within an active retail development and its incumbent traffic flows.
5. This most recent outline proposal has increased the number of properties from 12 to 14 compared to withdrawn application 13/01607/OUT. In so doing housing density has increased and the proportion of 'affordable houses' has fallen.
6. Residents within the proposal would be subject to substantial traffic noise and exhaust emission pollution.
7. The site entrance is dangerous, being part of a narrowing bend with very restricted lines of sight. This is exacerbated by the speed of traffic where

30mph signage is frequently ignored.

8. Comments above, the fact that the road reverts to national speed limit (ie 60mph) beyond Broadfield Close and lack of pedestrian footway contradict any assertion that Sandy Lane represents a safe walking/cycle route to/from Kidlington.
9. Changes to school catchment and school bus services will increase future traffic flow along Sandy Lane.
10. Supplies to the revamped nursery would necessitate ingress/egress for both shoppers and HGVs past the residential development and pose an additional traffic hazard.
11. Existing specific/protected pedestrian access from Sandy Lane is non-existent and if this is provided in the plan there is no pavement facility on the north side of Sandy Lane, and pedestrians would need to cross over on the dangerous bend.
12. The proposal should explore access via the road leading from the A44 to Begbroke Science Park.

3.2 **Kidlington Parish Council:** Object to the proposal on the same grounds as previously. Namely that the proposal would be located on Green Belt land and fails to represent infill within the Green Belt. The proposal is therefore contrary to policy GB1 of the adopted Cherwell Local Plan. The proposed development would generate additional traffic onto a minor road at a point where there is a blind bend. In addition there will be an increase in traffic accessing Kidlington and the A34 along this minor road (Sandy Lane) over the level crossing and across the narrow railway bridge at Yarnton Lane. The proposal is therefore deemed as contrary to policy TR2 of the Cherwell Local Plan.

3.3 **Begbroke Parish Council:** No comments received to date

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

3.4 **Planning Policy Officer:** No comments received to date

3.5 **Urban Designer:** While this is an Outline Application with layout matters reserved, there are a number of points that would need to be addressed if this site was to come forward as a Reserve Matters Application:

- Better articulation of the entrance area - the position of buildings does not maximise the opportunity of this space
- Use of a variety of building types. Currently only detached units are illustrated and the scheme would benefit from the introduction of some semi-detached and terrace units
- Establishment of an architectural vocabulary which develops a family of units on the site which help create a sense of place
- Better organisation of parking within space
- Consideration of the structure and materials used in the public realm - as this is such a small development there is scope to make many improvements in this area
- Landscape and planting strategy - using trees and planting to improve the quality of the area
- High quality wall detail to the garden centre access

3.6 **Private Sector Housing Officer:** No comments received to date

3.7 **Environmental Protection Officer:** No comments received to date

3.8 **Landscape Officer:** Pleased to see that a LAP is proposed and that at least some trees have been retained. Rear gardens and presumably close boarded fences backing onto the access road to the nursery won't look very attractive so it would be

preferable to see the strip between the garden boundaries and the footpath planted rather than being grass. It is noted that the hedge on the southern boundary is stated as being 1.5m wide. This is too narrow and 3m should be allowed for the hedge to spread adequately. A detailed planting plan needs to be conditioned along with proposals for the LAP. Maintenance provision for the LAP would need to be secured through the legal agreement and an offsite contribution for open space is also required.

- 3.9 **Arboricultural Officer:** No comments received to date. Comments previously made have been referred to for the purposes of this report as the same tree assessment report has been submitted; however Members will be updated in relation to the comments for this particular proposal at committee. The previous comments were:

There are a number of Category B trees identified for removal simply to accommodate the development and there is no justifiable reason to remove such valued trees. The proposed removal of Category C trees also places greater emphasis on the retention of Category B trees. Numbered trees should be retained and protected with the adjacent plots and section of new road layout amended to facilitate their retention. Some trees are accepted for removal, however within one group there are two Willow trees which should be upgraded to a Category B and should be considered for retention. The range of trees at T2 provides a reasonable level of screening to nearby residents, however is considered to be of poor form with the majority of trees within the group developing a spindly appearance with increasing gaps developing within the canopy. Consisting predominantly of cypress trees, there is also a small percentage of declining, pollarded poplar trees of no value. Although this compartment of trees should not be a constraint to the proposals its loss must be mitigated with a substantial landscaping scheme the influence of which on the adjacent proposed plots must also be considered in order to avoid nuisance issues such as reduced natural light levels, maintenance etc. The relocation of the hornbeam avenue is considered acceptable and proposed locations must be shown within a Conditioned landscaping scheme if approved. The proposals for the remaining boundary trees T3, T4, T5, H2, H3 and H5 is considered acceptable.

- 3.10 **Ecologist:** Comments as per those made in 2013. These are: No ecological concerns with the proposed development since there is little potential for protected species to be present. Due to the nature of the development there is little scope for biodiversity enhancements. An informative in relation to nesting birds should be attached to any permission.

- 3.11 **Strategic Housing:** No objections to this outline application for the development of 14 residential units. Due to its location and number there is a 35% affordable housing requirement equating to 5 units.

Due to the low numbers being delivered I would require that all 5 affordable units be delivered for affordable rent, and they can be located within one cluster.

The units must meet Lifetime Homes Standards, and the HCA's HQI's along with a minimum of Code for Sustainable Homes level 3.

The RP which takes on the affordable housing element will need to be discussed with and agreed by the Council.

I have a proposed indicative mix that should be used for the affordable housing provision unless otherwise agreed.

Rent  
4x2b4pH  
1x3b5pH

- 3.12 **Waste and Recycling:** No comments received but the usual bin contribution is considered necessary and has been requested.
- 3.13 **Community Infrastructure:** A condition should be imposed to secure a work of public art as part of the development, which could be a functional or decorative feature to benefit all residents and be publicly accessible.

#### **Oxfordshire County Council Consultees**

- 3.14 **Transport:** No objection subject to conditions and a S106 contribution towards public transport improvements (full details on the file and used to inform the highway section of this report).
- 3.15 **Minerals and Waste:** No objection – The application site includes limited deposits of sand and gravel on its eastern side and the proposed development would prejudice the possible working of sand and gravel deposits within adjoining land to the east. The application should therefore be considered against Oxfordshire Minerals and Waste Local Plan policy SD10. In view of constraints on and uncertainties relating to the possible working of these deposits it is unlikely that they constitute potentially workable mineral resources such as to justify safeguarding against built development.
- 3.16 **Archaeology:** An archaeological field evaluation has been undertaken on the site which did not record any archaeological features. It is therefore considered that the archaeological potential of the site is low and no further investigations will be required.
- 3.17 **Education:** No objection subject to a legal agreement to secure a contribution towards primary, secondary and SEN provision.
- 3.18 **Property:** No objection subject to a legal agreement to secure contributions towards waste management, libraries, the museum resource centre and day care. As well as an administration and monitoring fee.

#### **Other Consultees**

- 3.19 **Environment Agency:** The site is within flood zone 1 and as it is over 1 hectare in area, the NPPF requires that a Flood Risk Assessment be carried out. In this case an FRA has been provided. As the site is within flood zone 1 and between 1 and 5 hectares, a bespoke response will not be made. However standing advice is provided as the substantive response, to advise what should be in the FRA including key points for development within flood zone 1.
- 3.20 **Natural England:** Previous comments have been made by way of letter dated 30 August 2012 and 7 November 2013. These comments apply equally to this proposal although there is no objection to the original proposal. The amendments to the original application relate largely to size and are unlikely to have significantly different impacts on the natural environment than the original proposal. The previous response from NE is given below in paragraph 3.21.
- 3.21 The lack of a specific comment from Natural England should not be interpreted as a statement that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated sites, landscapes or species. It is for the local authority to determine whether or not this application is consistent with national or local policies on biodiversity and landscape and individuals may be able to help the LPA to fully take account of the environmental value of this site in the decision making process. LPAs should seek the view of their own ecologists when determining the environmental impacts of this development. It is

expected LPAs will consider protected species, the Natural England Standing Advice, local wildlife sites, biodiversity enhancements and the local landscape when determining this planning application.

- 3.22 **Thames Water:** Comments made with regard to surface water drainage, public sewers and water pressure could be included as a planning note. No objection on the grounds of water infrastructure capacity.
- 3.23 **Thames Valley Police:** The applicant should refer to the principles and standards of Secured By Design. The principles should be incorporated into the design. A condition to ensure this standard is reached is requested. The attachment of the condition would comply with planning policy and ensure the Authority is able to comply with its obligations under the Crime and Disorder Act 1998 in doing all that it can to reduce crime and disorder in its area.

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

##### **4.1 Development Plan Policy**

###### Adopted Cherwell Local Plan (Saved Policies)

- GB1: Development in the Green Belt
- H5: Affordable Housing
- H18: New dwellings in the countryside
- EMP4: Employment generating development in the rural areas
- C8: Sporadic development in the open countryside
- C14: Trees and landscaping
- C27: Development in villages to respect historic settlement pattern
- 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
- TR10: Heavy Goods Vehicles
- R12: Provision of public open space in association with new residential development

###### Non-Statutory Cherwell Local Plan 2011

- GB1: Development in the Green Belt
- GB1a: Residential development in the Green Belt
- H7: Affordable housing
- H15: The Category 1 villages
- EMP4: Existing employment sites
- TR4: Transport mitigation measures
- TR5: Road safety
- TR11: Parking
- TR16: Heavy goods vehicles
- R8: Provision of public open space in association with new residential development
- R9: Amenity areas
- R10a: Built sport and recreation facilities
- EN30: Sporadic development in the countryside
- EN34: Landscape character
- EN37: Trees, hedges and landscaping
- EN47: Archaeology and the built heritage
- D3: Local Distinctiveness
- D5: The design of the public realm

D6: Design control  
OA1: Community infrastructure for other authorities

## 4.2 Other Material Policy and Guidance

National Planning Policy Framework

National Planning Policy Guidance

Submission Cherwell Local Plan (January 2014)

The Submission Local Plan has been through public consultation and was submitted for Examination in January 2014 with a view to the Examination taking place during Spring 2014. The Submission Local Plan does not have Development Plan status but 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:

BSC2: The effective and efficient use of land – Brownfield land and Housing Density

BSC3: Affordable housing

BSC7: Meeting education needs

BSC10: Open space, outdoor sport and recreation provision

BSC11: Local standards of provision – outdoor recreation

ESD13: Local landscape protection and enhancement

ESD14: Oxford Green Belt

ESD16: Character of the Built Environment

Villages 1: Village Categorisation

Villages 2: Distributing growth across the rural areas

INF1: Infrastructure

## 5. Appraisal

5.1 The key issues for consideration in this application are:

- Relevant Planning History
- Policy Principles
- Green Belt
- Increased retail provision
- Highway safety
- Design/ layout and urban design
- Trees and landscaping
- Impact on neighbouring properties
- Ecology
- Flood risk
- Archaeology
- Contaminated Land
- S106 Contributions

### Relevant Planning History

5.2 The planning history for the site relates to the development of the nurseries/ garden centre site and is set out above. Particularly of note are two previous applications for housing (12/01135/OUT and 13/01607/OUT) which have been withdrawn. The 2012 application for 43 dwellings was withdrawn following concerns raised by Officers including the principle of the development in the Green Belt and the view that at that time there was no compelling case made of very special circumstances to justify the

development, highway safety and the compatibility of the proposal with the garden centre, the design and layout of the scheme, impact upon the amenity of neighbouring properties, lack of information in relation to archaeology, lack of onsite play provision and the lack of a legal agreement. The 2013 application for 12 dwellings proposed a reduced form of development and was supported by additional information that Officers considered overcame some of the previous areas of concern; however Officers were still of the opinion that the proposal represented inappropriate development and were still not convinced that there were very special circumstances to justify the proposed development. As such the 2013 application was also withdrawn.

- 5.3 Of note is a S106 agreement, which was attached to planning application (08/00203/F), which specifies which area of the site can be used for which purpose and the items that can be sold from the site. This agreement would need to be varied to allow any future development on the site to proceed.

### **Policy Principles**

- 5.4 The development plan for Cherwell comprises the saved policies of 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 and 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.
- 5.5 The NPPF introduces a presumption in favour of sustainable development. There are three dimensions to sustainable development; economic, social and environmental. The NPPF advises that these three dimensions are interlinked and that economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The presumption in favour of sustainable development should be seen as a 'golden thread' running through both plan making and decision taking. 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 permission unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted (footnote 9 gives examples of where development may be restricted, which includes land designated as Green Belt). (paragraph 14)
- 5.6 Yarnton is a sustainable settlement within the Cherwell District benefitting from services and facilities and good transport links to other nearby settlements offering a greater range of facilities. The settlements of Kidlington, Yarnton and Begbroke (East) are not covered by the Green Belt to allow for limited expansion within their built up limits. The NSCLP and emerging Local Plans all acknowledge that Yarnton has capacity to accept new residential development within the settlement.
- 5.7 There are no saved policies in the adopted Cherwell Local Plan in terms of new residential development in Yarnton, however the NSCLP classifies Yarnton as a category 1 village under policy H15 and which restricts new residential development to infilling (the development of a small gap in an otherwise built up frontage), minor development comprising small groups of dwellings on sites within the built up area of the village and the conversion of non-residential buildings. Within the Submission Local Plan, Policy 'Villages 1' classifies Yarnton as a category A settlement, suitable

for new residential development in the form of infilling, minor development and conversions.

- 5.8 Policy Villages 2 relates to sites for housing across the rural areas to meet needs in sustainable locations. The policy provides a limited allocation of 398 dwellings through the plan period (for sites for 10 or more dwellings) in the most sustainable locations. Yarnton is included within this list and is within a group expected to accommodate 96 dwellings. The policy also allows for a windfall allowance of 980 extra dwellings.
- 5.9 In this case however the site being washed over by the Green Belt is not considered to be within the settlement and the proposal cannot therefore constitute infilling or minor development within the built up area of the village and it is not a conversion scheme. Policy H18 of the adopted Cherwell Local Plan states that new dwellings beyond the built up limits of settlements will only be permitted where they are essential for agricultural or other existing undertakings. The proposal does not comply with Policy H18.
- 5.10 With regard to Housing, the NPPF requires that in order to significantly boost the supply of housing, Local Planning Authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing (paragraph 47). At paragraph 49, it is advised that where Councils cannot demonstrate a five year supply, relevant policies for the supply of housing should not be considered to be up to date. Proposals should therefore be considered in the context of the presumption in favour of sustainable development.
- 5.11 The current housing land supply figures are set out in the December 2013 Annual Monitoring Report taking into account recent appeal decisions. The Council is in a position where it can only demonstrate it has a 4.7 year supply of housing land (with a 20% buffer). As such, the Council's adopted policies relating to housing cannot be considered up to date and policy within the NSCLP and submission Local Plans currently hold limited weight as they have not been through any public examination. As such, paragraph 49 is engaged and it is therefore necessary to refer to paragraph 14 of the NPPF.
- 5.12 Whilst the District's Housing Policies cannot be considered to be up to date, the site sits within the Green Belt; therefore there are specific policies within the Framework, which indicate that development should be restricted. This means therefore that the presumption in favour of sustainable development as required by paragraph 14 is not engaged automatically and a consideration of whether the proposal represents appropriate development in the Green Belt should be made. It is also necessary to consider whether there are any other adverse impacts of the development that would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole.

### **Green Belt**

- 5.13 As the site is within the Green Belt, the principle policy consideration is Green Belt policy. In particular Policy GB1 of the adopted Local Plan is a saved policy and which states that inside the Green Belt, approval will not be given except in very special circumstances for development other than for agriculture, forestry, recreation, cemeteries, or for other uses of land which preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Residential infilling or other appropriate development in settlements in the Green Belt may be permitted provided it does not conflict with the purposes of the Green Belt or its open and rural character. Policy GB1 of the NSCLP follows the principles of policy GB1 of the adopted Cherwell Local Plan and policy GB1a of the NSCLP restricts residential development within them to either conversions or infilling within the built up limits of settlements within the Green Belt; otherwise permission will only be permitted in very

exceptional circumstances. The NPPF also provides advice and given the age of the Local Plan policies, it is necessary to consider whether these policies are consistent with the principles and policies of the NPPF. Advice with regard to the Green Belt in the NPPF is set out below; however it is considered that Local Plan policies are consistent with the thrust of the advice within the NPPF.

- 5.14 The Submission Local Plan includes policy ESD14: Oxford Green Belt, which advises that proposals for residential development will be assessed in accordance with Policies Villages 1 (sites within the built up limits of settlements) and Villages 3 (rural exception sites – which this proposal is not as it does not constitute a proposal for wholly affordable housing). All other development proposals within the Green Belt will be assessed in accordance with Government guidance contained in the NPPF. Development within the Green Belt will only be permitted if it maintains the Green Belts openness and does not conflict with the purposes of the Green Belt or harm its visual amenities.
- 5.15 The supporting text to policy ESD14 advises that the Local Plans housing requirements and development strategy can be achieved without the need for a strategic review of the Green Belt in the District.
- 5.16 One of the core planning principles within the NPPF, which should underpin decision taking states that planning should ‘take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it’ (paragraph 17). The NPPF also contains more specific Green Belt policy, which is set out in the following paragraphs.
- 5.17 According to the NPPF at Paragraph 79, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
- 5.18 Paragraph 80 identifies that the Green Belt serves five purposes; to check the unrestricted sprawl of large built up areas, to prevent neighbouring towns merging into one another, to assist in safeguarding the countryside from encroachment, to preserve the setting and special character of historic towns and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 5.19 At paragraph 87, it is described that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. NPPF Paragraph 88 states that in considering any planning application, Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt and ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 5.20 Paragraph 89 considers the construction of new buildings as inappropriate development in the Green Belt, but then sets out exceptions. One of the exceptions states ‘limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development’.
- 5.21 One of the core principles set out within the NPPF is to encourage the effective use of land by reusing land that has been previously developed (brownfield land) provided that it is not of high environmental value. Paragraph 89 therefore supports this key principle but gives a stipulation that the overall impact must not be greater.
- 5.22 It is clear that the NPPF continues to severely restrict new development in the Green

Belt. As has been set out, it is necessary to consider whether the site is previously developed land. The definition of previously developed land is set out at Annex 2 of the NPPF as follows:

“Previously developed land: Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time”.

- 5.23 The description of development that exists on the site is given at paragraph 1.2 and whilst the site is currently developed and so could be classified as being previously developed, there is a stipulation that any new development must not have a greater impact on the openness of the Green Belt. The case for the applicant is that the openness of the Green Belt is already prejudiced and the partial redevelopment would not have a greater impact on the openness of the Green Belt.
- 5.24 Officers fundamentally disagree with this conclusion. It is accepted that the land is likely to be considered to be previously developed (the site has an established lawful use and the buildings and associated curtilage have been in place for a substantial amount of time). However whilst the proposal results in the loss of the builder's yard to the north of the site, the land to accommodate the dwellings is essentially car parking currently. It is clear in Officers minds that the replacement of car parking with 14 dwellings would represent a significant increase in built development, which would have a materially greater and very serious impact on the openness of the Green Belt than the current use of the site. The proposal does not represent one of the 'exceptions' to a proposal being classed as appropriate as set out in paragraph 89 of the Framework and it is therefore considered to be inappropriate development. This in itself is harmful to the Green Belt (as advised by paragraph 87 of the NPPF). It is also necessary to consider the purposes of including land within the Green Belt and whether the proposal would conflict with any of these.
- 5.25 The existing site has developed in a piecemeal way over time as the planning history has demonstrated. Officers consider that the site as it exists, has had an impact on the openness of the Green Belt and that development has encroached into and caused urban sprawl into the Green Belt. However the site has grown from horticulture and in any event, the use of the site is now lawful. Despite the current site circumstances, it is considered that the proposal would represent encroachment of new built residential development into the countryside, given the overall impact on openness that housing would have compared to car parking. This would also result in the residential part of the village extending into the Green Belt which would represent urban sprawl. Another of the key purposes is to assist in urban regeneration, by encouraging the recycling of derelict and other urban land. In Officer's opinion, the proposal would not assist in urban regeneration as the land is not in need of renewal or other improvement to the area. Furthermore, the land is on the edge of the settlement and surrounded on three sides by open countryside, and is a site that has grown from being horticultural in nature and so the proposal would not result in the recycling of derelict or other urban land. The use of the land currently retains a degree of openness, which would be severely compromised by the proposed development. The development would therefore conflict with two of the key purposes of including land within the Green Belt.

- 5.26 In respect to other harm, in visual terms, the site is not prominent from the surrounding area currently, with the low rise buildings that exist, despite the extent of the site. The proposed housing development is contained to the south east of the site; therefore it would be seen within the context of the existing surrounding dwellings. However, the dwellings would be visible and their physical bulk would be an obvious change from the existing car park. The result would be a reduction in the openness of the area and a level of encroachment of built development into the countryside and this would be visually very noticeable including to nearby neighbouring properties. Whilst the actual development proposal could be considered to be relatively small scale, the proposal would set a precedent for further development on this site in principle, which has the potential to represent a significant development in the Green Belt causing far greater harm. Clearly at this stage, the proposal for 14 dwellings only is under consideration; however this on its own merits, represents inappropriate development that would harm the openness of the site and conflict with the purposes of including land within the Green Belt by causing encroachment and urban sprawl into the Green Belt. This carries substantial weight against the proposed development.
- 5.27 It is therefore concluded that the proposal represents inappropriate development in the Green Belt. As such it is necessary to consider whether there are any very special circumstances which would outweigh the harm caused to the Green Belt by reason of the inappropriateness of the development and its harm to openness. It is for the applicant to demonstrate very special circumstances and the following paragraphs will consider the case put forward by the applicant and assess the level of weight to be given to each argument.
- Five Year Supply of Housing
- 5.28 The applicant's main argument for the development is that the Local Planning Authority cannot demonstrate a 5 year supply of housing (+20% required by paragraph 47 of the NPPF) and that this proposal would contribute to the required supply. As is set out above, the Council cannot demonstrate a five year supply of deliverable housing land. It is therefore necessary to consider whether this represents such a very special circumstance that harm to the Green Belt is outweighed.
- 5.29 There have been various recent Country wide appeal decisions that have been reported by the Planning Press including decisions taken by the Secretary of State (SoS) with regard to the weight to be attributed to the lack of a five year supply as a very special circumstance to justify development in the Green Belt. Whilst each case must be assessed on its own merits, these decisions provide a steer as to the Government's view on development in the Green Belt and this is material to the current proposal. Some examples are given below.
- 5.30 Firstly, however a Ministerial Statement delivered to Parliament by Brandon Lewis MP on the 17 January 2014, which followed his Statement given in July 2013, he (in reference to Travellers Sites) confirmed the Government's intentions with regard to the importance of the protection of the Green Belt. He noted in that Statement, the Secretary of State's policy position that unmet need, whether for travellers sites or for conventional housing, is unlikely to outweigh harm to the Green Belt and other harm to constitute the 'very special circumstances' justifying inappropriate development in the Green Belt. It is advised that this point is emphasised to Local Planning Authorities and Planning Inspectors as a material consideration in their planning decisions.
- 5.31 Turning to appeal decisions, Officers have noted a number of important decisions recently. Firstly, a decision made by the Secretary of State in June 2013 relating to a

site in Thundersley, Essex<sup>1</sup>. The SoS disagreed with the Planning Inspector and concluded that *'the appeal proposals are inappropriate development in the Green Belt. Additionally he has identified harm to the GB's openness and harm to the GB's purposes of preventing urban sprawl, preventing encroachment on the countryside and preventing the merging of neighbouring settlements and, furthermore, harm to GB's character and appearance. He considers that, together, this represents considerable harm, to which he attributes substantial weight. The Secretary of State has found that there are factors in favour of the appeal including a severe lack of a forward housing land supply (0.7 year supply) and that, setting aside GB considerations, development of the appeal site would not cause demonstrable harm. He also wishes to emphasise that national policy is very clear that GB reviews should be undertaken as part of the Local Plan process. In light of all material considerations in this case the Secretary of State is concerned that a decision to allow this appeal for housing in the GB risks setting an undesirable precedent for similar developments which would seriously undermine national GB policy. Having weighed up all material considerations, he is satisfied that the factors which weigh in favour of the proposal do not clearly outweigh the harm to the Green Belt that would arise from the proposal. The Secretary of State therefore concludes that the appeal should be dismissed.'*

- 5.32 Secondly a decision made by the SoS in March 2014 relating to a site in Saltford, Somerset<sup>2</sup>. The SoS again disagreed with the Planning Inspector concluding *'that the appeal proposals are inappropriate development in the Green Belt. Additionally he has identified harm to the Green Belt's openness and harm to the Green Belt's purpose of preventing encroachment into the countryside. However he disagrees with the Inspector about the extent of that encroachment and attaches considerable weight to this issue. Overall, he considers that, together, this represents considerable harm, to which he attributes substantial weight. The Secretary of State has found that there are factors in favour of the appeal including the substantial shortage of deliverable housing land in B&NES (Bath and North East Somerset) and that, setting aside Green Belt, development of the appeal site would not cause demonstrable harm. However, having weighed up all material considerations, he is satisfied that the factors which weigh in favour of the proposal do not clearly outweigh the harm to the Green Belt that would arise from the proposal. The Secretary of State therefore concludes that the appeal should be dismissed.'*
- 5.33 Thirdly, Officers are aware of a Planning Inspector's decision from June 2012 relating to a site in the Green Belt at Cheltenham where the Inspector found that the Local Authority could not demonstrate a five year housing land supply, however *'despite the clear benefits of the scheme in meeting some of those housing needs the particular characteristics of the appeal site mean that the totality of the harm would not be clearly outweighed by other considerations and the very special circumstances necessary to justify the development do not exist.'*
- 5.34 Fourthly, a proposal in St Albans for residential development of 116 dwellings, a care home and other associated facilities was refused by the Local Authority and an appeal dismissed. The applicant challenged the decision and the Inspectors decision was quashed. This led to an appeal by the Council to the High Court. The Judgement found that the Inspector had erred in law because of how she had considered the housing land supply of the district (she concluded there was no shortfall because she had taken into account the constraints on built development in the district which resulted from the extensive green belt area), which was found to be the incorrect approach. However, when the shortfall is agreed, it is then necessary for the decision

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<sup>1</sup> Appeal Reference APP/M1520/A/12/2177157 Appeal at Land off Glebelands, Thundersley, Essex, SS7 5TN for residential development of up to 165 dwellings, landscaping, open space, access

<sup>2</sup> Appeal Reference APP/F0114/A/13/2195351 Appeal at Parcel 8966, Land to the South of Manor Road, Saltford, BS31 3AB for the erection of up to 99 dwellings and associated parking, vehicular access and separate pedestrian access from Manor Road, associated engineering works and the construction of two car parking lay-bys on Manor Road

taker to consider whether this represents a very special circumstance to justify green belt development. It was found that weight can be given to a lack of housing land supply as a very special circumstance, but that the planning context of the shortfall must be considered and whether this outweighs the contribution of the particular site in question to the purposes of the green belt. The decision should take account of a number of factors including the scale of shortfall and the context in which the shortfall should be seen, a context which may include the extent of important planning constraints in the district as a whole. In the case of the St Albans District, the majority of land outside of the urban areas predominantly sits within the Green Belt. As such, it found that *'there may be nothing special, and certainly nothing 'very special' about a shortfall in a district which has very little land outside the Green Belt.'*

- 5.35 Officers consider this judgement can apply to a district with a relatively small percentage of Green Belt. Development, and that to address a shortfall, can be accommodated on sites outside of the Green Belt, in accordance with emerging Policy ESD14 of the Submission Local Plan and the NPPF and therefore the argument that the Authority cannot demonstrate a five year supply should not, in the opinion of Officer's be treated as 'very special' to justify inappropriate development in the Green Belt.
- 5.36 In the view of Officer's the contribution to the District's five year supply does carry weight in favour of the proposal if it were to be shown that the site were deliverable within five years as it would support the Council's requirement to boost significantly the supply of housing. However, the proposal is for a relatively small number of dwellings and therefore the actual contribution to the five year supply would be very limited. Furthermore, the Council's position is that it has a 4.7 year supply with a 20% buffer; therefore whilst there is a shortfall, the extent of the shortfall is actually relatively low at this point in time. In any event, whatever the shortfall, as is described above, Parliament has indicated that a shortfall should not be seen as a very special circumstance because of course this circumstance could be found in various locations across the Country and is not 'very special' to this particular proposal. As has been demonstrated above, the Secretary of State has been clear in his decision taking that the Green Belt must be protected in line with the NPPF and has dismissed appeals in the Green Belt even where a five year supply cannot be demonstrated. The Cherwell District has a very high percentage of its area located outside of the Green Belt with the majority of its largest settlements outside of it and therefore, the shortfall can be addressed on sites outside of the Green Belt. This is supported by the advice within the Submission Local Plan that the Green Belt boundary is not to be subject to a strategic review because the housing requirements and development strategy can be achieved without this being needed. Furthermore, the consideration of a lack of housing land supply as a very special circumstance could set an undesirable precedent both within this District (and could prejudice the Council's position with regard to the rest of this site) as well as Country wide. In the view of Officer's the weight to be attributed to this argument as a very special circumstance is very limited and that this consideration does not outweigh the identified harm to the Green Belt.

#### Protection of the existing business

- 5.37 The applicant provides a basic argument within their planning statement that the proposal will secure jobs and protect a business that is important in the local area. The 2013 application was supported by a suite of confidential documentation giving evidence that the business needed financial support and that the granting of planning permission would result in the protection of jobs. Officers had a number of queries and questions resulting from an assessment of this information and this was one of the reasons that the 2013 application was withdrawn. The current application is not supported by the same level of information and does not clarify or address the concerns that Officer's previously held. The protection of jobs and the business may hold some weight as a special circumstance but in this case, the weight to be

attributed to this argument is considered to be limited because it is not substantiated by evidence. This does not therefore outweigh the harm to the Green Belt.

#### Affordable Housing

- 5.38 The applicant argues that the provision of 35% affordable housing represents a special circumstance. Whilst this is a benefit of the proposal, this is a usual requirement for any major residential development and does not therefore represent a 'very special circumstance' that this benefit would outweigh the identified harm to the Green Belt in the view of Officers.

#### Other considerations

- 5.39 The applicant goes through the purposes of including land within the Green Belt, as set out within the NPPF and argues that the development does not conflict with any of these purposes. It is argued that the proposal would not result in unrestricted sprawl, that the coalescence of neighbouring towns would not result, that the proposal would not result in any encroachment into the countryside, that the proposal would not harm the setting and special character of the historic town and that the proposal would make the best use of existing previously developed urban land.
- 5.40 Officers consider that the proposal would conflict with the key purposes of including land within the Green Belt as set out at paragraph 5.25. As such, this very special circumstance is considered to hold limited weight.
- 5.41 The applicant argues that the site is within the built up area of Yarnton and so the development would comply with policy H10 of the adopted Cherwell Local Plan, which is a permissive policy for development within Kidlington, Yarnton and Begbroke (East) subject to a number of criteria. Policy H10 is not a saved policy and therefore holds no weight, however in any event, officer's do not consider the site to be within the built up area of Yarnton (as described in paragraph 5.9). Ultimately, the site is within the Green Belt and so needs to be considered in line with the Green Belt policy as set out, which it has been demonstrated the proposal conflicts with. As such, this special circumstance is considered to hold limited weight.
- 5.42 The applicant has submitted a report to demonstrate that Code for Sustainable Homes Level 4 could be met on this scheme. This would be desirable but does not overcome or outweigh the harm to the Green Belt.
- 5.43 It is described above that the presumption in favour of sustainable development does not apply if there are specific policies in the NPPF that indicate development should be restricted, which includes Green Belt land. In these circumstances, it is clear that even if relevant development plan policies are out of date, the presumption to grant permission does not apply. Therefore, the specific location of the site within the Green Belt, where there is a presumption against inappropriate development that would harm the openness of the Green Belt and conflict with the purposes of including land within the Green Belt, which has been demonstrated as being the case here, means that in Officers opinion, the harm caused would not be outweighed by the benefits of the development.
- 5.44 Officers are not convinced that there are any very special compelling circumstances that would outweigh the harm to the Green Belt by way of inappropriateness, harm to the openness of the Green Belt and the purposes of including the land within the Green Belt. The proposal therefore cannot constitute sustainable development in this regard. It is necessary to consider whether there are any other benefits that would arise from the proposal that would clearly outweigh the harm to the Green Belt so as to amount to the very special circumstances necessary to justify the development.

#### **Increased retail provision**

- 5.45 The proposal also involves alterations and an extension to the existing nursery/

garden centre building. The planning statement advises that the extension to the garden centre amounts to the creation of 1,680m<sup>2</sup> of new retail area (including administrative offices). However it is advised that 1,581m<sup>2</sup> of this addition is currently used as external retail space and therefore the net increase is just 99m<sup>2</sup>.

- 5.46 In Green Belt terms, the principle policy consideration is set out in paragraphs 5.13 to 5.21. A further exception to new development being considered inappropriate within the Green Belt, as set out in paragraph 89 of the NPPF, is 'the extension or alteration of a building provided it does not result in disproportionate additions over and above the size of the original building'. The existing nursery building is largely covered, however there is a large part of the centre that is currently open and it is proposed to cover this. The 99m<sup>2</sup> additional would represent around a 3% addition to the building, which alone does not appear to represent a disproportionate extension, however taking into account the gradual extensions that the Nursery building has had over time, it is clear that the building has significantly increased over time and which could indicate the inappropriateness of this element of the scheme. Notwithstanding this, it is your officer's view that given the result which it is understood would include all concessions within the extended building, the overall impact of the development on the openness of the Green Belt would not be so harmful to warrant this element of the scheme being resisted. Suitable conditions could be used to control this.
- 5.47 It is also necessary to consider the retail impact of the proposal. The planning history demonstrates that the existing uses and concessions available at the site are authorised and given that it is understood the extension is proposed to accommodate the existing concessions, it is considered that a sequential assessment is not necessary in this case because it would not result in any significant level of additional retail provision.
- 5.48 The proposal would support the existing employment generating use on the site and would represent a minor extension to an existing employment site as the site is adjoining a settlement in accordance with policy EMP4 of the adopted Cherwell Local Plan.
- 5.49 On its own merits the extension and alterations to the garden centre itself would not represent such serious harm to the Green Belt and if a planning application were to be made for this alone (but to include the re-arrangement of the concessions so that they were all under one roof), it would be difficult to resist. As such, this element of the proposal is considered to be acceptable in principle. This view does not however represent a very special circumstance for the housing element of the scheme.

#### **Highway matters**

- 5.50 The site is situated in a relatively sustainable location in transport terms. Yarnton has a range of facilities available, which would be within walking distance and there are good transport links available to other nearby settlements such as Kidlington and Oxford, which offer a wider range of facilities.
- 5.51 The site itself is accessed off Sandy Lane, which is relatively narrow with limited footways. At the time of the 2012 application, it was considered that the junction to the Nurseries with Sandy Lane did not provide the required vision to each direction.
- 5.52 However, a Transport Assessment has been submitted to support the application which assesses existing transport options and concludes that the site is within a sustainable area, where there is realistic travel mode choice served by sustainable modes of transport and with good cycling and walking connections. The site and surrounding area has a good past safety record with few accidents and personal injuries recorded. Furthermore, it concludes that the development proposed will not have a significant net impact on the operation of the local highway network. With regard to the vision available, this is assessed and it is concluded that visibility splays

of 2.4m X 43m can be achieved and that the land across which the visibility is required is public highway maintained by Oxfordshire County Council.

- 5.53 The Highway Authority previously objected to the proposal, however have assessed the submitted information to the current application and advise that there is no objection to the application subject to various conditions. The advice received is that the traffic generated by the proposed development would not have any significant impact upon the operation or spare capacity of the highway network. The proposed vehicular and pedestrian accesses do not raise concerns with regard to highway safety or convenience, although detailed plans are required and should include pedestrian crossing provision in the form of dropped kerbs and appropriate tactile surfaces. The submitted layout is considered to be acceptable providing appropriately for pedestrians and the parking and manoeuvring of vehicles. A contribution is requested towards improving the bus route that currently extends from Woodstock to Oxford.
- 5.54 The level of objection with regard to highway safety issues are noted however as has been assessed a detailed transport statement has been provided and assessed by the Highway Authority who raise no objection. It is therefore considered that the proposal is acceptable in highway safety terms and that a reason for refusal based on highway safety concerns could not be sustained at appeal. The lack of any highway safety concern however would not outweigh harm caused by the principle of the development in the Green Belt.

#### **Design/ Layout and Urban design**

- 5.55 One of the core planning principles set out in the NPPF, which should underpin decision taking states that planning should 'always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings'. Good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. The NPPF advises at paragraph 58 that planning policies and decisions should aim to ensure that developments achieve a number of results including the establishment of a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit and that developments should respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation. Paragraph 60 advises that whilst particular tastes or styles should not be discouraged, it is proper to seek to promote or reinforce local distinctiveness.
- 5.56 Paragraph 61 of the NPPF advises that although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.
- 5.57 Policy C27 of the adopted Cherwell Local Plan states that development proposals in villages will be expected to respect their historic settlement pattern (whilst the site is considered to be outside the village, given its proximity, it is considered proper to expect that the proposal would comply with this requirement).
- 5.58 The adopted Cherwell Local Plan also contains established policy C28 which states 'control will be exercised over all new development, including conversions and extensions, to ensure that the standards of layout, design and external appearance, including the choice of external finish materials, are sympathetic to the character of the urban or rural context of that development'. Policy C30 states 'design control will be exercised to ensure... (i) that new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity and (iii) that new housing development or any proposal for the extension (in cases

where planning permission is required) or conversion of an existing dwelling provides standards of amenity and privacy acceptable to the Local Planning Authority'. As the adopted Cherwell Local Plan was adopted in 1996, its policies are very dated, however given the advice within the National Planning Policy Framework, it is considered that the policies outlined above accord with the thrust and core principles of the Framework and as such carry full weight currently.

- 5.59 The NSCLP contains Policy D6, which reflects the advice within policy C30 of the adopted Local Plan and policy D3, which seeks to ensure that development reflects the locally distinctive character of the site and its context. The Submission Cherwell Local Plan contains a similar policy ESD16: The Character of the Built Environment, which again requires that development complements and enhances the character of its context and that new development will be required to meet high design standards.
- 5.60 The application is in outline only and therefore the design/ layout of the site can be subject to change, however given the proposal is for a relatively small number of dwellings, it is considered that the layout shown is highly likely to be followed should the proposal reach reserved matters stage. The layout forms a cul de sac with the dwellings arranged off of it and with a LAP positioned close to the entrance to the site but benefitting from being relatively centrally located and therefore overlooked. Whilst most of the development in the surrounding area represents road frontage development, being spacious in nature with large gardens and set back from the road, planned cul de sacs have been introduced, in particular 'Poppy Close' situated just to the south of the site as well as the Broadfield Road development further along Sandy Lane. As such, it is considered that the layout of the site would respond to the context of the surrounding area and this would not be a reason to resist the proposal. The Urban Design Officer has made various comments, which could be addressed should outline planning permission be granted and at the reserved matters stage and whilst there are concerns, changes to overcome these concerns could be made. The house types themselves are now more traditionally designed and would largely be acceptable; however there are some wide spanned properties and various features including a cat slide roof arrangement that would not be appropriate. Design could be negotiated at the reserved matters stage should the application be approved. It is considered that the applicant has demonstrated that 14 dwellings could be accommodated on the site in a suitable layout and which responds to the context of the area.
- 5.61 The access to the site would continue to serve the commercial activities on the site as well as the proposed residential properties, however there is a more defined separation between the two based on the layout now proposed and it is ultimately considered that there would be no serious conflict between the commercial and residential uses based on the current layout that would justify a refusal of the application. As is described above, there is no highway objection and so this layout is considered to now be acceptable.
- 5.62 The application is in outline only at this stage; however the layout proposed is considered to demonstrate that 14 dwellings could be accommodated on the site in a suitable arrangement. It is considered therefore that the proposal complies with the above mentioned policies as far as it is possible to assess this matter at outline stage. Whilst it has been concluded that an acceptable layout and design could be achieved, it is considered that this would not outweigh the harm demonstrated from the principle of the development in Green Belt terms.
- Trees and landscaping**
- 5.63 The Landscape Planning Officer advises that further thought needs to be given to the scheme to avoid back garden fences along the access way or at least mitigating their impact with landscaping. Overall conditions could be used to address the comments made.

- 5.64 The comments of the Arboricultural Officer demonstrate that further work is needed to retain trees that are worthy of retention, which may result in some alterations to the site layout. The larger belt of trees to the south of the site acts to screen the site from nearby neighbours, however the form of these trees is poor and therefore whilst they have screening benefits, they do not form a constraint to the development, providing appropriate mitigation is provided. Full comments are outlined above.
- 5.65 Several residents of Sandy Lane have set out their desire to see their screen to the site retained, and the layout could be changed to achieve this. The comments above, demonstrate that the poor form of the trees means that it would be unlikely the trees could be formally protected and that appropriate mitigation would need to be introduced. Therefore, Officer's consider that whilst the loss of the large belt is unfortunate, ultimately, its replacement would be beneficial. Other trees have not been identified for retention that the Arboricultural Officer would like to see retained, however it is considered that the comments made could be dealt with by condition and with further negotiation at the reserved matters stage. As such, Officer's do not consider that trees and landscaping poses a constraint to the development and that the proposal could not be resisted on these grounds.

#### **Residential amenity**

- 5.66 The layout of the site is unlikely to harm the residential amenity of existing neighbouring properties by way of loss of light, loss of privacy or over dominance. In most cases it appears that a distance of at least 25m is provided between any of the proposed dwellings and the existing dwellings, which is greater than the minimum the Council normally expects to see in order that residential amenity is protected. Window positions and specific locations of the dwellings could be determined at a later date to ensure the scheme protects the amenity of existing nearby dwellings.
- 5.67 The proposed dwellings are shown to be in such a layout that there would unlikely be concern in terms of the impact upon the residential amenity of each other. This matter would be addressed via the submission of a reserved matters application where the final layout would need to ensure the amenity of future residents would be protected, however it is considered that it is likely this could be. The access to the commercial activities on the site runs in relatively close proximity to the proposed dwellings and would serve both customer and commercial traffic. Whilst there may be noise and disturbance resulting from this, the impact would not be significantly worse than existing residents already experience and the site is relatively well separated from the rest of the site. Essentially, it is not considered that this would be a reason to resist the planning application.
- 5.68 The requirements of policy C30 of the adopted Cherwell Local Plan are set out within paragraph 5.58 (and policy D6 of the NSCLP in paragraph 5.59) setting out the need for high standards of amenity to be sought as well as the core principle of the NPPF to secure a good standard of amenity for all existing and future occupants of land and buildings. It is considered that these policies can be met by the proposed development as the residential amenity of both existing and proposed dwellings can be protected. This however does not outweigh the harm identified by the principle of the development in the Green Belt.

#### **Ecology**

- 5.69 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)

- 5.70 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 NSCLP 2011.
- 5.71 No Ecological survey was submitted to support the current application; however surveys previously undertaken concluded that the majority of the site is of low or negligible ecological value but that where appropriate, mitigation measures are proposed. The Councils Ecologist has no ecological concerns with the development advising that the site has little potential for protected species to be present. She recommends that a planning note be used in relation to nesting birds should the application be recommended for approval. She has confirmed this view remains the case in relation to the current application. Local residents are concerned about the loss of habitat for birds, however whilst their concerns are noted, birds are only protected during the nesting season and in any event, a landscape screen between the site and off site neighbours could be implemented by way of a planning condition.
- 5.72 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 National Planning Policy Framework -Conserving and enhancing the natural environment and Policy C2 of the adopted Cherwell Local Plan.
- Flood Risk**
- 5.73 A flood risk assessment has been submitted with the application because the site area is over 1ha and the site is situated within flood zone 1. The Environment Agency have not provided a bespoke response however standing advice has been received as to how the FRA should be assessed. The standing advice advises that because a flood zone 1 area is low risk, the assessment should be focused on the management of surface water run off. As far as Officer’s can see, the FRA contains all the information that the EA would expect to see in an FRA for a development of this type.
- 5.74 The FRA concludes that flood risk from external sources is considered to be low. Floor levels within the development site would however be 150mm above surrounding finished ground levels as a precaution. The development site currently has largely impermeable areas and surface water run off is disposed of via soakaway. The proposed development would introduce further areas of permeable surface in the form of garden and green landscaping areas. Surface water run off from the proposed development impermeable areas will be disposed of to permeable pavement and soakaways and there will be no surface water discharge from the site. Infiltration facilities will be designed to accommodate and dispose of run off from storms up to the 1:100 year + 30% climate change event. It is finally concluded that providing the development adheres to the conditions outlined within the report, the development proposals can be accommodated without increasing flood risk within the locality and without placing the development itself at risk of flooding.

5.75 Officers are satisfied that on the basis of the submitted FRA, surface water run off is unlikely to increase and this in turn will not seriously increase flood risk. It is considered that the FRA addresses the points that the EA would look for. The FRA has provided a level of comfort that flood risk will not be increased, Officer's do not consider this is a reason to resist the application.

5.76 Thames Water advise that public sewers cross or are close to the development site. The comments of Thames Water in terms of surface water drainage and water are noted.

#### **Archaeology**

5.77 The planning application submitted in 2012 contained a desk based archaeological assessment, which concluded the archaeological potential of the site is high identifying potential heritage assets within the site. The Oxfordshire County Council Archaeologist reviewed the report and advised that an archaeological field evaluation was required. This assessment has now been completed and submitted with the current application. The report concludes that while some archaeological features were encountered, these were likely to be of modern or agricultural origin and no artefacts were found. It is on this basis that the Oxfordshire County Council Archaeologist has raised no objection to the proposal stating that as no archaeological features were recorded, it is considered the archaeological potential of the site is low and that no further investigations would be required.

5.78 As such, it is considered that the information submitted demonstrates that there are no archaeological constraints to the scheme and the proposal is acceptable in this regard.

#### **Contaminated Land**

5.79 No response has been received from the Council's Environmental Protection Officer in relation to the submitted environmental assessment and so Members will be updated in relation to this matter at committee.

#### **Planning Contributions**

5.80 Requests have been made in relation to the following infrastructure measures: open space and outdoor sport and recreation, a commuted sum relating to the onsite LAP, refuse bins and recycling banks, general transport and access impacts, education (primary, secondary and SEN), libraries, day care, museum resource and strategic waste management. Officers have contacted the applicant to make them aware of the required contributions. No response has been received and no further progress on this matter has been made due to the recommendation, however in the past the applicant has indicated their willingness to enter into a legal agreement for contributions. Should Members resolve to approve this application, then a legal agreement would be progressed. However whilst the applicant may remain willing to contribute towards the infrastructure required, there is no signed legal agreement in place and therefore in the absence of this, a refusal reason is necessary in relation to this matter as it cannot be guaranteed that the necessary infrastructure provision will be provided.

5.81 The applicant has offered 5 affordable units (2x1 bed, 4x2 bed, 7x3 bed and 1x4 bed), which amounts to 35% as this accords with the Council's policies. However as no legal agreement is in place to secure the 5 units as affordable, this needs to form part of refusal reason 2.

5.82 The Council's Landscape Team have confirmed that a Local Area of Play (LAP) would be required on the site and this is now provided for (which was not shown on the 2012 application). This play space would provide much needed green space and a focus for the development.

### **Other matters**

- 5.83 The comments of the consultees, third parties and the Parish Councils are noted and have been addressed within this appraisal.

### **Engagement**

- 5.84 With regard to the duty set out in paragraphs 186 and 187 of the Framework, Officers have met with the applicant numerous times and outlined issues that would need to be overcome or demonstrated through the application process. These concerns have not been overcome, resulting in the recommendation for this application. No problems or issues have arisen during the application process and it is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

### **Conclusion**

- 5.85 The proposal would constitute inappropriate development, harmful to the Green Belt. The proposal would result in the development of a previously developed site, but which would have a materially greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. This harms the most important attributes of the Green Belt, which are their openness and permanence. The presumption against inappropriate development means that this harm alone attracts substantial weight. The NPPF makes it clear that substantial weight should be given to any harm to the Green Belt. The need to achieve Sustainable Development is not automatically engaged.
- 5.86 The proposal would however provide both market and affordable housing. Given the District's current inability to demonstrate a deliverable five year supply of housing, the provision that would be contributed by this development should carry weight in favour of the proposal. The provision of affordable housing should also carry weight in favour.
- 5.87 Seen as a whole and balancing the harms to the Green Belt and the other identified harms against the benefits of the scheme, which amount only to the contribution that would be made to the District's Housing Land Supply position and the provision of affordable housing, despite no other significant harm being identified, it is Officer's opinion that the totality of the harm to the Green Belt is not outweighed by the very special circumstances identified. Consequently the very special circumstances necessary to justify the development do not exist. Furthermore, in accordance with paragraph 14 of the Framework, the adverse impacts of the development in the Green Belt, where development is specifically restricted, would significantly and demonstrably outweigh the benefits that the housing would bring having regard to what the Framework says about the importance of the Green Belt. In this regard, the proposal would not constitute sustainable development and consequently the presumption in favour does not apply. The development would be contrary to Local Plan policies and the National Planning Policy Framework in respect to development in the Green Belt and is recommended for refusal as set out below.

## **6. Recommendation**

**Refusal**, for the following reasons:

1. In the opinion of the Local Planning Authority, whilst the site is previously developed, the proposed development would have a serious and materially greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development and therefore the proposal represents inappropriate development in the Green Belt. The Local Planning Authority do not consider there to be any very special circumstances, which includes the Council's current inability to demonstrate a 5 year

deliverable supply of housing throughout the District required by Paragraph 47 of the NPPF or any other benefits of the scheme, which would outweigh the demonstrable harm caused to the Green Belt by way of inappropriateness, harm to the openness and the fact that the development would conflict with the key purposes of including land within the Green Belt. The proposal is therefore unsustainable development. The proposal is contrary to Policies GB1 and C8 of the adopted Cherwell Local Plan, Policies GB1 and GB1a of the non-statutory Cherwell Local Plan, Policies ESD14 and ESD16 and Government Guidance contained within the National Planning Policy Framework 2012.

2. In the absence of a satisfactory unilateral undertaking or any other form of S106 Legal agreement, the Local Planning Authority cannot guarantee that the infrastructure directly required to service or serve the proposed development will be provided. This would be contrary to Policies H5, TR1 and R12 of the adopted Cherwell Local Plan and Policies H7, OA1, TR4, R8, R9, and R10A of the non-statutory Cherwell Local Plan 2011, Policies BSC3, BSC10, BSC11 and INF1 of the Submission Cherwell Local Plan January 2014 and Government guidance contained within the National Planning Policy Framework 2012.

#### **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.