

Site Address: OS Parcel 6680 North of Hook Norton Primary School and South of Redland Farm, Sibford Road, Hook Norton

14/01825/OUT

Ward: Hook Norton

District Councillor: Cllr Jelf

Case Officer: Ernest Addae-Bosompra

Recommendation: Refusal

Applicant: Gladman Developments Ltd

Application Description: Outline – Erection of 54 dwellings, Landscape, Public Open Space and Associated Works

Committee Referral: Major and Departure from Policy

1. Site Description and Proposed Development

- 1.1 The application site is situated at the northern end of the village of Hook Norton and relates to approximately 2.70 ha of agricultural land located to the east of the Sibford Road between the Hook Norton Primary School and Redland Farm, an intensive dairy farm. The land is relatively flat agricultural land and is currently in arable use and has an existing field gate access onto the Sibford Road just north of the primary school entrance. The site is bounded by hedgerows and trees to all boundaries of the site. A denser tree belt currently exists along the northern boundary of the site within the Redlands Farm control. To the east and west of the site lies open agricultural land. To the south west are residential properties set back behind a wide verge, fronting Sibford Road.
- 1.2 The proposal seeks consent for up to 54 dwellings, 35% of which will be affordable to include an area of open space in the south eastern corner of the site and a single vehicular access onto the Sibford Road. An attenuation pond is indicated along the northern boundary at the low point of the site. It is proposed to retain existing trees and hedgerows where possible.
- 1.3 Members will recall that at their meeting held in September 2014 they refused planning permission for a similar development – see para 5.3 to 5.6 below

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letters, site notice and an advert in the local press.

8 letters of objection have been received to date. The following issues have been raised

- Village infrastructure is incapable of supporting unchecked development
- Already approved housing is placing stress on the community
- Gladman have no interest in the sustainability of Hook Norton
- Absence of an approved housing plan should not provide a technical loophole facilitating unchecked development at the expense of the community.
- Sibford Road can only increase the traffic problems and dangers that already exist.
- Main aim of the second application is to ridicule Cherwell and Hook Norton Councils
- Further destruction of the environment in and around Hook Norton

- Local services and infrastructure cannot cope with current demand, the school is full and local residents already have difficulty getting children into school
- The sewage system is insufficient to cope with the development
- In periods of heavy rain, water runs down Sibford Road and not into the drains
- School is in danger of losing its village ethos
- Bus service is erratic and it is ludicrous to promote cycling as an alternative when we are miles away from alternative transport on narrow, unlit roads
- Commuters are less likely to shop in the village
- New residents will be subject to the odour, insect nuisance and noises of the neighbouring dairy farm
- Random testing of the odour dismisses it as 'slight adverse'
- A 3.5m wall and a band of trees cannot deal with the issue
- Road infrastructure simply cannot take any more new homes and roads are very narrow and increased traffic outside the school at peak times does not appear to have been taken into consideration in the TA
- The only viable heating fuel is oil, a rapidly dwindling resource and a high carbon footprint
- Is the heavy carbon footprint to be off-set by tree planting
- Hook Norton has had its fair share of new development
- Contrary to the NPPF
- The bus service does not serve the working population because of the late and infrequent times and no link to local trains
- In a village which prides itself for its low carbon credentials, in all the plans put forward so far not a single alternative energy solution has been put forward, nor insisted on by the council in compliance with the NPPF
- Too many houses crammed into a small space, spoiling the look of the village
- It will compromise the farm which has been there for generations
- No local employment means people have to commute long distances for work
- It will further prejudice the ability of longstanding village families to get their children to the oversubscribed school
- Hook Norton is creaking at the seams with traffic
- Foul farm smell, unable to open windows, sit in your garden or hang out washing, this is obnoxious for us but to live on top of it would be unbearable.
- Such development, when taken together with the planning permissions already granted, would fundamentally undermine the intrinsic character of the village and would do nothing to support what is currently a thriving community.
- CDC has been lagging in its duty to protect us by not producing a five year plan
- Noise from the milking machines, a constant beeping sound from roughly five in the morning
- Bellowing of cows when separated from their young, I have logged for the purposes of this letter the various days when this has been an issue over the last 6 weeks, to date there have been 36 occasions
- Several houses in Sibford Road have commercial fly killing machines to deal with flies from the slurry pit. Complaints of this nature would no doubt impact on the viability of the farm and would be contrary to the NPPF and the support of the rural economy and the scarce number of jobs available locally
- Size of development runs contrary to the Neighbourhood Plan
- Whilst some homes will be affordable, the vast majority of units would fail to meet the needs or budget of local residents, namely the young and elderly to enable them to remain in the village
- This vexatious application appears identical to that which was previously refused
- 54 houses in addition to 105 houses now granted consent, does not support a thriving community
- I am woken most days at dawn by machinery and warning horns

- The stench from the farm is gut-wrenching on more days than it is not
- Our traditional villages need to be preserved to retain the character of our countryside
- Previous application was rejected and gone to appeal, but this application is a mirror and so should be refused
- The development does not accord with the Neighbourhood Plan and significant weight should be attached to the latter given the stage it is at.

Consultations

- 3.1 **Hook Norton Parish Council:** Hook Norton has reviewed this application and can see no significant changes to the earlier application (14/00844/OUT) to which they objected and which was refused. Therefore the Parish Council objects to this application for the following reasons:

The Ministerial announcement by Nick Boles of 14th July 2014 in which it is clear that the Secretary of State wishes planning decisions to reflect the governments clear policy intention when introducing neighbourhood planning, “ which was to provide a powerful set of tools for local people to ensure they get the right types of development for their community, while also planning positively to support strategic development needs”

The Hook Norton Neighbourhood Plan (HNNP) is progressing via Cherwell District Council (CDC). It has been out to consultation and is now going toward Examination and Referendum and we therefore consider it as a highly material consideration to this application in accordance with recent Ministerial advice.

The application conflicts with several policies in the Neighbourhood Plan as set out in this submission and therefore the PC objects to the application, not only for reasons previously submitted but also for the following policy-based reasons.

Under policy HN-H2 of the HNNP, any applications for housing development will be assessed for suitability of location according to a set of criteria. The application fails to meet 3 of the 4 criteria because:

Site location

Under policy HN-H2 of the HNNP, any applications for housing development will be assessed for suitability of location according to a set of criteria. The application fails to meet 3 of the 4 criteria because:

- The application does not comply with policies in the plan, as set out in this submission
- Consultations undertaken as part of the neighbourhood planning process clearly showed the application site as one where respondents felt housing should not go
- The PC is aware that an expansion of the school is sought as a result of the recent approval of a large amount of residential development. The school is immediately adjacent to the application site and the residential development proposed would preclude the potential for the adjacent school to consider using the site for expansion.

no reference to another development in Hook Norton which will result in an additional 37 dwellings. All the committed development will inevitably impact on the road network of the village as a whole because of the small size of the settlement. We therefore disagree with the claim that the traffic growth applied is robust. We consider that the lack of consideration of cumulative effect renders the TA questionable and as transport is a fundamental aspect of sustainability, the application as a whole is similarly unacceptable.

Provision of a Transport Plan cannot make up for the poor sustainability rating of Hook Norton (as found in CDC's Local Plan evidence base document CRAITLUS) – no Travel Plan can overcome the fact that the location and size of the proposal is inappropriate. The HNNP takes account of CRAITLUS and provides in HN-H1 for measured growth but this application is contrary to the HNNP.

The DAS refers (in section 04) to the proposal having a “layout that encourages people to walk and cycle and to use the Primary Street and its public bus route”. The application does not appear to propose or fund the additional bus services which would be required to meet this statement, contrary to Policy HN-T2. The application also appears to offer no enhancement to the PROW network as sought in policy HN-COM2.

Effect on adjacent sites

The application site is immediately adjacent to the primary school and Redlands Farm. The requirement for the school to expand has been considered in relation to site location and policy HN-H2 above. In relation to the farm, the application acknowledges the noise and odour effects which are a part of the day-to-day operation of the farm business. However, the issues seem inadequately addressed in the application and the PC is concerned that future residents living so close to the farm would raise objections related to noise, smell etc., and thereby raises doubts about the future of Redlands Farm to provide employment. The HNNP seeks to retain local employment under policy HN-COM5 and the community values the contribution the farm makes.

Conclusion

The policy comments above are submitted in relation to the HNNP which is at an advanced stage and provides clear policy guidance. Hook Norton is a village which is due to undergo significant expansion and the Neighbourhood Plan has been prepared in order to manage future growth. Such an approach accords with the Government's localism agenda and the NPPF core planning principle requiring planning to be plan-led and empowering local people.

Cherwell District Council Consultees

- 3.2 **Planning Policy Officer:** The site is not allocated for development by either the saved policies of the adopted Cherwell Local Plan 1996 or those of the non-statutory Cherwell local Plan 2011, nor is the site proposed for development as a strategic housing allocation in the Submission Local Plan January 2014.

The main saved policies of relevance for the adopted Cherwell Local Plan 1996 are

Policy C8 – Sporadic development in the Countryside

Policy H18 – New Dwellings in the countryside

Policy- C7 Harm to the topography and character of the landscape

Policy C9 – Beyond the existing and planned limits of Banbury and Bicester

Policy ENV1: Environmental Pollution including paragraph 10.5 which states, “ Where a source of pollution is already established and cannot be abated, the Council will seek to limit its effect by ensuring that development within the affected area maintains a suitable distance from the pollution source”

The site is not identified for development in the Non-Statutory Cherwell Local Plan 2011. Whilst some policies within the Plan may remain to be material considerations, other strategic policies have in effect been superseded by those of the Submission Local Plan (January 2014). The Planning Policy Team should be contacted on 01295 227985 if advice is required

on individual policies.

The main policies relevant for the Non-Statutory Cherwell Local Plan 2011 to this proposals are:

Policy H15 Residential development in category 1 settlements

Policy H19 New dwellings in the countryside

Policy EN30 Sporadic development in the countryside

Policy EN31 Beyond the existing and planned limits of the towns of

Banbury and Bicester

A new Local Plan (Part 1) was submitted to the Secretary of State on 31 January 2014 for Examination. Following Hearings in June 2014, Proposed Modifications were submitted on 21 October 2014. Hearings continued from 9 December 2014 to 23 December 2014. The Inspector's report is expected in the Spring of 2015. The main draft policies of most relevance (as proposed to modified) are:

Policy Villages 1; identified as a Category 1 village

Policy Villages 2;

Policy BSC3: Affordable Housing

Policy BSC4: Housing Mix

Policy ESD13: Local Landscape Protection and Enhancement

Policy ESD16: The character of the built and historic environment

The paragraphs of the NPPF most relevant to this application are:

Paragraph 49 states that 'housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites'

Paragraph 47 requires local planning authorities to 'identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land'

Paragraph 14 on the presumption in favour of sustainable development. This indicates that where a development plan is absent, silent or the relevant policies are out of date, planning permission should be granted unless

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
- Specific policies in this Framework indicate development should be restricted

Paragraphs 47-50 and 55 on delivering a wide choice of high quality homes

Paragraphs 56, 57, 59-64 on requiring good design

Paragraph 109 on conserving and enhancing the natural environment

The NPPG states that it is important to recognise particular issues facing rural areas in terms of housing supply and affordability, and the role of housing in supporting the broader sustainability of villages and smaller settlements. It states that assessing housing need and allocating sites should be considered at a strategic level and through Local Plan and/or neighbourhood plan process. However, all settlements can play a role in delivering sustainable development in rural areas.

The PPG provides advice on the weight that can be attached to an emerging neighbourhood plan when determining planning applications (Paragraph: 007 Reference ID: 41-007-20140306): “Planning applications are decided in accordance with the development plan, unless material considerations indicate otherwise. An emerging neighbourhood plan may be a material consideration. Paragraph 216 of the National Planning Policy Framework sets out the weight that may be given to relevant policies in emerging plans in decision taking. Factors to consider include the stage of preparation of the plan and the extent to which there are unresolved objections to relevant policies. Whilst a referendum ensures that the community has the final say on whether the neighbourhood plan comes into force, decision makers should respect evidence of local support prior to the referendum when seeking to apply weight to an emerging neighbourhood plan. The consultation statement submitted with the draft neighbourhood plan should reveal the quality and effectiveness of the consultation that has informed the plan proposals. And all representations on the proposals should have been submitted to the local planning authority by the close of the local planning authority’s publicity period. It is for the decision maker in each case to determine what is a material consideration and what weight to give to it.”

The PPG also provides advice on ‘prematurity’ (Paragraph: 014, Reference ID: 21b-014-20140306): in the context of the Framework and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both:

- a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning; and
- b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

Refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process.

Five Year Housing land Supply – the latest published position on the districts housing land supply is the Housing Land Supply Update June 2014 which was published following a change in circumstances and reflects the Oxfordshire SHMA 2014 midpoint figure of 1140 dwellings per annum, currently considered to be the objectively assessed housing need figure for the district. It indicates that the five year supply of deliverable sites for 2014-2019 is now 3.4 years (compared to 4.9 years in the 2013 AMR). This includes a requirement for an additional 20% buffer and taking into account of the shortfall (2314 homes) within the next five years. The projection for 2015-2020 is 3.4 years supply.

The latest published position on the district’s housing land supply is the Housing Land Supply Update June 2014. This states that the five year supply of deliverable sites for 2014-2019 is 3.4 years. This includes a requirement for an additional 20% buffer and makes us the delivery shortfall (2314 homes) within the next five years. The projection for 2015-2020 is 3.4 years supply. The calculations do not include new deliverable sites permitted since June 2014 and the land supply position will shortly be reviewed

Strategic Housing Land Availability Assessment Oct 2013 – the SHLAA is a technical

document and is a key element of the evidence base for the emerging Cherwell Local Plan. It will help the Council to identify specific sites that may be suitable for allocation for housing development. The SHLAA is to inform plan making and does not in itself determine whether a site should be allocated for housing development.

The SHLAA 2013 recorded the application site (ref. HO027) but included the site in the list of rejected sites, as the availability of the site was not confirmed and was therefore not considered to be available at that time. It recommended that the Council kept the site under review.

The Submission Hook Norton Neighbourhood Plan has been consulted upon, submitted, and is currently the subject of an Examination. A Consultant Statement has been produced. There are outstanding objections to the Plan. Key relevant policies are:

Policy HN - H1: Sustainable housing growth states, "Sustainable housing growth for Hook Norton in this Plan period (2014 to 2031) means conversions, infilling, and minor development. 'Conversions' means the conversion of either residential or non-residential buildings. 'Infilling' means the development of a small gap in an otherwise continuous built-up frontage, typically but not exclusively suitable for one or two dwellings. 'Minor development' means small scale development proposals, typically but not exclusively for less than 10 dwellings. To maintain a sustainable community, proposals for up to 20 dwellings will be allowed where justified by objectively assessed local housing need and where this does not result in more than 20 dwellings being built in any location at any time, taking into account any extant permissions. In all cases, housing growth must comply with all relevant policies in this Plan."

Policy HN - H2: Location of housing states, " Any applications for housing development will be assessed for suitability of location using the following criteria. Suitable locations will:

- Not be in Flood Zone 2 or 3 or within 8 metres of a watercourse
- Comply with policies and advice in this Neighbourhood Plan
- Comply with the evidence gained during Neighbourhood Plan consultation regarding general locations and extents of sites, as set out above in Section 4.2
- Take account of existing or potential alternative site uses which shall be identified in consultation with the Parish Council."

The Plan includes other policies on matters of detail including Policy HN - H3: Housing density and Policy HN - H4: Types of housing.

The Neighbourhood Plan (p.18) comments that there was not public support for development on the 'field between the School and Redlands Farm' and seeks to restrict size of developments in individual locations to 20 dwellings.

However, I consider that the weight that that can be attached to the Submission Neighbourhood Plan in the context of unresolved objections and issues will be limited.

Overall Policy Observations

The site lies outside the built up limits of the village, would extend development into the countryside and as such is contrary to saved policies in the adopted Local Plan for protection of the countryside. It's housing policies are, however, out-of-date in the context of the current five year land supply position (NPPF, para' 49). Development would have an impact on the appearance of the countryside and on the landscape setting on the approach to the village from the north. The SHLAA identifies this location as being potential suitable for residential development but a detailed assessment will need to be made as to whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. This should include detailed issues of compatibility with Redland Farm to the north. The grant of permission would produce new housing including affordable homes and if the houses were to be shown to be deliverable within five years, they would contribute to the five year land

supply.

Hook Norton is identified as a suitable location for some new development in the Submission Local Plan as Proposed to be Modified. The Plan has limited weight at this stage. The application is for a number of homes (54) that exceeds the 20 homes restriction suggested by the Submission Neighbourhood Plan and is in a location considered by the Plan to be locally unpopular. That Plan also has limited weight at this stage.

The village has received a modest level of growth in recent years, but the Stanton Engineering site in Station Road (under construction) has planning permission for 37 dwellings and the appeal decision for Bourne Lane is for an additional 70 dwellings. It is considered that the development proposed would not be so substantial, or its cumulative effect so significant, that to grant permission would undermine the completion of the Local Plan process.

However, now that the Neighbourhood Plan is being Examined, I consider that the grant of permission would predetermine the Examiner's recommendations and completion of the Neighbourhood Plan process due to the scale of the proposed development in light of draft Policy HN - H1 which is central to the Submitted Plan. However, the effect of such predetermination will need to be considered in the light of all material considerations.

Policy Recommendation –

No planning policy objection in principle to the development of this site but the grant of permission would now predetermine completion of the Submitted Hook Norton Neighbourhood Plan by reason of development scale in the context of draft Policy HN - H1. The effect of this predetermination will need to be considered in the context of all material considerations including the latest five year land supply position and whether the adverse impacts of granting permission, including the impact on the countryside and landscape, would significantly and demonstrably outweigh the benefits brought about by the construction of new homes including affordable housing. To contribute to the five year land supply the development would need to be deliverable within five years

These comments can be seen in full on the application details on the Council's website.

3.3 **Housing Officer:** No objection to this application, the applicant has stated the need to provide a policy compliant quantity of affordable housing on site and has given an indicative unit and tenure mix to confirm with this requirement. 35% affordable housing equates to 19 units, not 18 as stated in the in the applicant's affordable housing statement. There should be a 13 rent and 6 low cost home ownership split.

As noted in the submission the affordable units should, as far as possible, be indistinguishable from the private market housing creating tenure blindness. The clustering sizes proposed is acceptable, that is, between 6-10 units and should be transferred to a Registered Provider which will need to be agreed with the council.

The applicant has suggested that the affordable housing will be secured through condition rather than sec 106 agreement. This is unacceptable and not consistent with Cherwell's approach on this matter.

Although the indicative unit mix is a reasonable approach, it is suggested that the following mix better suits Cherwell's housing needs

Affordable rent	Intermediate housing
2x1 bed 2 person maisonettes	6x2bed4person houses
6x2bed4person houses	
5x3bed5person houses	

The applicant has indicated that they would be open to discussions around a proportion of the affordable housing to be delivered in the form of a commuted sum approach in order to re-

provide affordable housing in another location in the district.

As there is a significant amount of affordable housing being delivered through existing permissions in Hook Norton, this may be considered further. However the presumption is that the affordable housing should be delivered on site at present.

- 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 naturally occurring contamination such as arsenic, nickel or even vanadium.

The Desk Study Report prepared by Hydrock Consultants has been reviewed which advises that further ground investigation works may need to be carried out on the site. A condition is recommended.

- 3.5 **Landscape Officer:** The site is currently a pastoral field surrounded by hedgerows and mature. To the north lies Redlands dairy farm and to the south is Hook Norton . The site lies within an AHLV but not within or adjacent to the Conservation Area. There is a belt of trees adjacent to Redlands Farm but this is outside the application boundary. The site slopes gently from north to south

The site is not contiguous with either the Conservation Area or Cotswolds AONB and therefore development in this location will have little effect on them. The effect on the AHLV will be minor as the proposed development is located adjacent to existing development and between the school and farm. Development will inevitably remove a gap between the built form and farm on this side of Sibford Road, but this has to be balanced by the existence of existence of existing and consented development on the opposite side of the road.

Visual effects

Some partial view of the upper parts of new dwellings. Moderate to minor adverse effects.

The development will not be visible from the AONB or the Conservation Area. The site is within the AHLV but is contiguous with the built form on the north and south boundaries. The development will be visible from Sibford Road and Bourne Lane. However visibility in the wider landscape will be limited by intervening vegetation, topography and distance.

- 3.6 **Anti Social Behaviour Manager:**

The arguments for and against this proposed development were examined in detail at the Planning Inquiry convened to consider that applicants appeal against the Councils decision to refuse planning application no 14/00844/OUT. The current application does not differ significantly from the submission considered at appeal and the applicants technical submissions in respect of odour, insects and noise that are included as part of this application were taken into account during the course of the appeal.

In respect of odour my objection remains and I would support that view with reference to paragraphs 2.3 and 2.4 of my inquiry proof of evidence which states as follows:

“ 2.3 Peter Brett Associate LLP Odour report – July 2014

2.3.1 In response to this recommendation the applicants submitted a report prepared by Peter Brett Associates LLP. The document was titled “Land Off Sibford Road Hook Norton –Odour Impact Assessment Report”. It was referenced 31495/3001 and was dated July 2014.

2.3.2 This document has undertaken an odour assessment using two of the techniques described in the Institute of Air Quality Managements’ Guidance document. A predictive assessment using a matrix recommended in the guidance together with an observational

assessment using the 'sniff test' described in the guidance.

2.3.3. The predictive assessment relies on judgements being made as to the weight that should be assigned to a series of odour descriptors, site conditions and receptor sensitivity. Details of these factors and their application are contained within Appendix 1 of the guidance.

2.3.4 The first step in the process is to identify the potential odour sources to be considered. In this case three potential odour sources are selected. These are the livestock buildings at Redland Farm, the slurry lagoon and the silage storage clamps. I would consider these sources as representative of the odour producing activities on the farm.

2.3.5 Next a 'source odour potential' is assigned to each source. In their assessment Peter Brett Associates have assigned a source odour potential of 'Medium' to the livestock buildings and slurry lagoon and medium to small for the silage clamps.

I would argue that assigning a medium odour source potential to the farm underestimates the situation. Table 8 on page 28 of the guidance details the descriptors used to define the three levels of odour source potential. In the box describing Large Source Odour Potential a list of factors are set out. These include the 'unpleasantness' of the odour rated in terms of its classification within Table 5 of the document, hedonic tone and the means of odour mitigation. Whilst I would not disagree that the livestock buildings should attach a rating of medium, in my view the slurry lagoon and the slurry handling process should fall within the large source odour potential classification on the basis that it contains material which is highly offensive in odour terms and it is an open air operation that relies on good management and best practice to mitigate its affects.

Hedonic tone is a property of an odour relating to its pleasantness or unpleasantness. A distinction should be made between the acceptability and the hedonic tone of an odour. When an odour is evaluated in the laboratory for its hedonic tone in the neutral context of an olfactometric presentation, the panellist is exposed to a controlled stimulus in terms of intensity and duration. The degree of pleasantness or unpleasantness is determined by each panellist's experience and emotional associations.

2.3.6. Pathway effectiveness is the next factor to be considered. This is effectively a description of the source of the odour and the terrain between the release point and any potential receiver. In all cases Peter Brett Associates have assigned a pathway effectiveness of 'moderately effective' for all three factors.

Again it is my view that these factors have been incorrectly assigned. I would argue that the development site is effectively adjacent to the farm complex and that the odour releases from all three sources are at ground level.

Reference is made in this section to 'minimum setback' distances. These are distances between an odour source and a receiver are designed to ensure that there is no adverse impact from odour at sensitive locations.

Whilst there is no current UK statute that specifies such distances they are defined in other jurisdictions. The State of Queensland in Australia for example suggest a separation distance of 500 m should exist between agricultural land and an odour sensitive receptor. This advice is contained within that States Planning Guidelines: Separating Agricultural and Residential Land Uses – August 1997 attached as Appendix 4 of this proof.

British Standard BS 5502 Part 33 1991 Building and Structures for Agriculture. Guide to the Control of Odour Pollution states that planning controls in force at the time the standard was published sought to prevent permission for livestock waste storage facilities from being created within 400m of dwellings.

2.3.7. The 'sniff test' assessment was based on one further visit to the site with the applicants consultants choosing to argue that this test was undertaken under worst case conditions.

2.3.8 The conclusion to this report indicates that the northern part of the development site could suffer substantial adverse odour effects under worst case conditions. Basing a

prediction of frequency on metrological data rather than multiple observations they conclude that the frequency of occurrence of these conditions would be so infrequent as to render odour not an issue rating the effect slightly adverse overall.

2.3.9 In my view the 'predictive assessment' underestimates the odour potential for the farm site and the 'sniff test' approach is based on insufficient baseline data to permit it to be used to draw robust conclusions from.

2.4 Peter Brett Associates LLP Addendum to odour impact report –August 2014

2.4.1. An addendum to the Odour Impact Assessment report was prepared by Peter Brett Associates for the applicants. The document, dated August 2014, is attached as Appendix 5 of this proof.

2.4.2 The document was submitted following a request made by the Council to quantify the effect of the odour mitigation they had indicated they intended to provide on the development site. This additional was described as being in the form of a vegetative barrier.

2.4.3 The principal behind the use of a vegetative barrier is to create turbulence within the airstream passing from an odour source to a receiver relying on the turbulence to mix the odorous air stream to point where the odorous component is diluted to a point where it no longer causes offence.

It is further claimed that the barrier would have the effect of trapping dust which is cited as a significant vector for the transmission of odour.

2.4.4 .At 2.1.1 of the addendum report Peter Brett Associates state that 'odour largely travels by way of particulates'. Whilst this may be the case where the source of odour is a 'dry' process such as the rearing of broiler poultry intensive dairy farming is essentially a 'wet' activity with large quantities of slurry, a mixture of animal manure urine and washing water, being produced. In these cases the odorous emissions are at molecular level, considerably smaller in size than dust particles. I would therefore submit that a vegetative barrier would have limited effect on their physical distribution.

2.4.5. Mention is made of studies that describe the performance and formation of vegetative barriers yet these are not referenced within the document.

2.4.6. In an extract from a paper published by the University of Delaware the author Bud Malone suggests a planting width of 9 metres is needed to establish a vegetative barrier consisting of a three row planting of mixed species (paragraph 12) Malone goes on to describe the results of two seasons assessment of the performance of this barrier. The results across the reported time period were highly variable with some odour parameters being reduced by 67% in the first season with performance falling to 29% in the second season (paragraph 12). This extract is attached as Appendix 6 of this proof.

2.4.7. I would submit that in order to bolster the claimed effect of their vegetative barrier the applicants are choosing to relying on vegetation that is already established on the Redlands Farm site. Equally they suggest that a 3.5 metre noise barrier may have some benefit in creating air movement and dispersing odour. No conclusive proof was included in the odour assessment to confirm this effect."

The applicants have sought to update and reinforce their submission on odour by submitting a further report from Peter Brett Associates dated October 2014. This document includes additional odour monitoring logs which appear to show a 'slight adverse' effect on the development site due to odour from the nearby Dairy Farm. As it emerged at the inquiry we do not accept the view as the odour monitoring exercises were carried out at times of day when the most malodorous activities on the farm were taking place. Equally during wind conditions

favourable to the applicants position odours of significant strength were detected on the application site.

In addition to our concerns over odour the potential the Diary Farm has to offer a source of insect pests was a second reason why we would support a recommendation to refuse this planning application.

- 3.7 **Ecology Officer:** The ecological survey found no evidence of any protected species using the site and the likelihood of any being present was considered to be negligible. Ecological enhancements in the form of additional boundary planting, informal grassland, SUDS area, appropriate management of retained hedgerows and the provision of new bat roosting and bird nesting opportunities are suggested in the May 2014 ecological appraisal. The bat roosts and bird nest boxes, as stated in the report, should be a mixture of types, with some being incorporated in to the new dwellings. Swifts are present in the village and incorporated nest boxes for this species should be considered where the building design allows. Conditions and an informative are recommended.

Oxfordshire County Council Consultees

- 3.8 **Highways Liaison Officer:** The objectives of the 'Local Transport Plan 2011-2030 (Revised April 2012) reinforce the need to ensure the sustainability of rural areas and include the objectives for rural transport of:
- Supporting access to work, education and services for the residents of rural Oxfordshire
 - Supporting the rural economy through access to rural Oxfordshire for all (local residents and non-residents)
 - Maintaining and improving the condition of local roads, bridleways, footpaths and cycleways and supporting access by all modes.

This site is located on the periphery of Hook Norton, a rural village in north Oxfordshire with poor accessibility and only very limited shops and services available locally. Walking and cycling may be appropriate for trips within the village but are highly unlikely modes for non-recreational trips beyond the settlement. A bus service is available, but its frequency is poor with a limited number of destinations available. Employment opportunities within Hook Norton are few and the primary school will require extension to accommodate the expected increased demand. The CRAITLUS Study raised similar concerns and noted that Hook Norton was among the most remote settlements in terms of access to the larger county towns. Sustainability in terms of accessibility and dependence on the private car, is clearly a concern but this is a matter for the Local Planning Authority to determine in conjunction with the other sustainability merits of the development; and in terms of the NPPF it may be difficult to prove severe detrimental impact based on transport matters alone.

Travel Plans aid in encouraging modal shift to a more sustainable travel. OCC's guidance, 'Transport for New Developments: Transport Assessments and Travel Plans march 2013' states that for a development of 50 to 79 dwellings a travel plan statement is required. The documents submitted with the application include a travel plan but some amendment is needed to meet the requirements outlined in the OCC guidance. This matter is best dealt with by condition and further advice may be obtained from the Travel Plans Team at OCC.

The proposed site access is appropriate and plans show the provision of a footway connecting to existing provision. The layout of the site is not to be determined at this stage; however, illustrative plans appear acceptable in principle.

Hook Norton village is connected to Banbury and Chipping Norton by bus route 488, which offers a broadly hourly service on weekday daytimes. There are however, several recognised deficiencies with this service, including the lack of a morning peak service to Chipping Norton and a lack of an evening and Sunday service.

Developer funding is sought with the aim of improving the frequency and hours of operation of this bus route in order that new residents would benefit from improved connectivity to Banbury and Chipping Norton, where employment and other facilities can be found. The sums sought are similar to other developments in this area that are outside of the Local Plan.

A number of conditions are recommended together with a financial contribution of £862 per additional dwelling towards improvement of the Chipping Norton-Banbury bus service (indicatively £46,548) and a contribution of £4,000 towards improved bus stop facilities at The Green. A S278 under the Highways Act will be required in respect of works within the highway relating to access works and footway provision.

- 3.9 **Drainage Officer:** A full drainage strategy, layout plans and drainage calculations will be required and approved by the Lead Flood Authority (OCC) prior to the commencement of any development.
- 3.10 **Education:** A feasibility study has been conducted to identify how Hook Norton CE Primary School could grow in a manner which is cost-effective, without compromising the high quality of education provided by this school. The County Council's proposed strategic response to population growth arising from a number of housing proposals in and around Hook Norton CE Primary School is the expansion of Hook Norton school to 1.5 form entry. This would be subject to statutory approval process. All relevant housing developments in the area would be expected to contribute towards the cost of this expansion.

Following recent expansion of the school's accommodation, Chipping Norton secondary School has sufficient spaces to absorb the level of housing growth likely in this area. No Section 106 is currently expected to be required for expansion of permanent secondary school capacity in the area.

Planning permission to be dependent on a satisfactory agreement to secure the resources required for the necessary expansion of education provision. This is in order for Oxfordshire County Council to meet its statutory duty to ensure sufficient pupil places for all children of statutory school age.

£212,298 Section 106 developer contributions towards the expansion of permanent primary school capacity serving this area, by a total of 18.33 pupil places. This is based on Department for Education (DfE) advice weighted for Oxfordshire, including an allowance for ICT and sprinklers at £11,582 per pupil place. This is index linked from 1st Quarter 2012 using PUBSEC Tender Price Index.

Hook Norton CE Primary School's site is 4900m² below the 1.81ha which OCC requires for a 1.5 form entry school. To facilitate the school's expansion to meet the needs of housing development, OCC would like to discuss with the developer any scope for augmenting the school's site.

£10,545 Section 106 developer contributions towards the expansion of permanent Special Educational Needs school capacity by a total of 0.35 pupil places. This is index linked to 1st Quarter 2012 using PUBSEC Tender Price Index. We are advised to allow £30,656 per pupil place to expand capacity in special educational needs schools.

- 3.11 **Archaeology:** the site lies within an area of some archaeological interest but in an area where little archaeological investigation has been undertaken and therefore very little is known. A possible Bronze Age barrow is recorded 390m to the west of the site although it is possible that this is a post medieval windmill tump. A second barrow has been recorded from aerial photographs 900m to the west. A number of find spots of prehistoric flint tools and roman pottery have been recovered from the general area of the site. An archaeological evaluation on a site to the west of this application recorded an undated linear feature. The site has seen little recent disturbance and therefore if unknown archaeological features are present on the site it is possible they could be fairly well preserved.

A condition is therefore recommended to ensure a staged programme of archaeological

investigation during construction.

- 3.12 **Minerals and Waste:** Published BGS mapping shows the application site to be underlain by deposits of ironstone which lie to the north of Hook Norton, on the east side of Sibford Road. The Council is not aware of any detailed geological information on the depth, extent and quality of these ironstone deposits, and there is no known history of mineral working or of minerals industry interest in the immediate area.

The proposed development needs to be considered against saved Oxfordshire Minerals and Waste Local Plan policy SD10 on protection of mineral resources. This policy dates from 1996 but it is consistent with the NPPF (paragraph 143, bullet 3). Under policy SD10, development which would sterilise the mineral deposits within this site should not be permitted unless it can be shown that the need for the development outweighs the economic and sustainability considerations relating to the mineral resource.

The ironstone deposits within and adjoining the application site are constrained by the existing school and housing to the south and south east, on the northern edge of Hook Norton village, and by the house adjoining the application site to the north. In view of this, it is unlikely that these mineral deposits would constitute a workable ironstone resource. Therefore, the proposed development would not be contrary to saved Oxfordshire Minerals and Waste Local Plan policy SD10 on protection of mineral resources and, accordingly no objection should be raised to this planning application on minerals policy grounds.

- 3.13 **Ecology Officer:** The submitted ecological appraisal is satisfactory and there is little in the way of protected species on site. The hedgerows and species dependent on them are the principal ecological feature which need retention and protection during construction. There is considerable scope for biodiversity enhancements on site and in general the layout suggested in the design and access statement would offer some gains for biodiversity if appropriately managed. Enhancements should also be included within the built environment (integrated bat and bird boxes/nests/tubes in suitable locations, green walls, invertebrate boxes etc..).

Lighting on site should be kept minimal, directional and it should be ensured that light spill does not affect boundary vegetation.

Other Consultees

- 3.14 **Thames Water;** Following initial investigation, Thames Water has identified an inability of the existing waste water infrastructure to accommodate the needs of this application. Should the Local Planning Authority look to approve the application, Thames Water would like the following 'Grampian Style' condition imposed. "Development shall not commence until a drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved by, the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed". Reason - The development may lead to sewage flooding; to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community.

Thames Water have become aware of two further possible development sites. The cumulative impact of these 3 sites causes concern that existing customers may be affected by sewage flooding. A detailed drainage impact studies to determine whether upgrades would be necessary and if they are what the scale and location of the upgrade would be. This may lead to the possibility of a more strategic solution being possible, subject to the phasing of the development sites, meaning less disruption for all during construction.

Surface Water Drainage - With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site

storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. .

- 3.15 **Natural England:** No objection. The application is in close proximity to Hook Norton Cutting and Banks SSSI and Whichford Woods SSSI. Natural England is satisfied that the development as submitted will not damage or destroy the interest features for which the site have been notified and therefore these SSSI's do not represent a constraint in determining this application. Should the details of the application change, Natural England should be re-consulted.

The Local authority should also assess and consider other possible impacts on local sites, local landscape character and local or national biodiversity priority habitats and species. The application has not been assessed in terms of impact on protected species.

In terms of biodiversity enhancements, the application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if minded to grant permission. This is in accordance with Paragraph 118 of the NPPF.

3.16 **Thames Valley Police:**

TVP has undertaken an assessment of the implications of growth and the delivery of housing upon the policing of the Cherwell District Council area and in particular the major settlements in the district where new development is being directed towards. We have established that in order to maintain the current level of policing developer contributions towards the provision of infrastructure will be required. This assessment and information has been fed into the Council's Infrastructure Delivery Plan and is acknowledged by the Council as a fundamental requirement to the sound planning of the area.

The additional population generated by the development will inevitably place an additional demand upon the existing level of policing for the area. In the absence of a developer contribution towards the provision of additional infrastructure then TVP consider that the additional strain placed on our resources and therefore ability to adequately serve the development.

At present the Cherwell Local Police Area (within which Hook Norton lies) has a population of approximately 141,900 and 56,700 households. based on 2011 Census information

At present this population generates an annual total of 32,871 incidents that require a Police action. These are not necessarily all "crimes" but are calls to our 999 handling centre which in turn all require a Police response/action. Effectively therefore placing a demand on resources.

The proposed development of 54 units would have a population of 135 (at 2.5 per unit). Applying the current ratio of "incidents" to population then the development would generate an additional 41 incidents per year for TVP to deal with.

In total Cherwell area is served by; (all figures = FTE)

- 124.3 Uniformed Officers – a mixture of Patrol and Neighbourhood
- 21 PCSO's.
- 11 CID Officers.
- 9.25 Dedicated staff

Central staffing provision is provided and drawn upon when required – this ranges from support functions (HR, IT, etc) to operational functions (SOCO, Forensics, Major Crime Unit) these services are provided force wide. Again utilising the ratio of current staff/officers to the projected additional demand then the development would generate the following additional requirements.

Total Additional LPA Officers Required	0.13
Total Additional PCSO	0.02
Total Additional CID	0.01
Total Additional Support Staff (Local/Central)	0.01

In order to mitigate against the impact of growth TVP have calculated that the “cost” of policing new growth in the area equates to £11,917 to fund the future purchase of infrastructure to serve the development.

The contribution represents a pooled contribution towards the provision of new infrastructure to serve the site and surrounding area. The pooling of contributions towards infrastructure remains appropriate under the terms of the CIL Regs, up until the relevant Local Authority has adopted CIL, whereby pooling will be limited to 5 S106 Agreements (subject to other regulatory tests).

The contribution will mitigate against the additional impacts of this development because our existing infrastructures do not have the capacity to meet these and because like some other services we do not have the funding ability to respond to growth.

The contribution requested will fund, in part, the following items of essential infrastructure and is broken down as follows;

STAFF SET UP

The basic set up costs of equipping and training of staff;

OFFICER/PCSO	
Uniform	£873
Radio	£525
Workstation/Office Equip (2:1 ratio)	£1508
Training	£4515
TOTAL	£7421

On the basis that the development generates a requirement for 0.15 (uniformed officers – including PCSO) the set up costs equate to £1113 (7421 x 0.15) staff generation/CID increase is not included given its small impact.

PREMISES

At present within Cherwell Neighbourhood Policing is delivered from premises in Banbury, Bicester and Kidlington. At present TVP maintain full capacity of accommodation for staff and officers, with any additional capacity delivered via new works to provide floorspace. Each new officer/member of staff is allocated 16.8sqm of floorspace (workstation, storage, locker room etc) at a cost of £1800per sq m. This is a derived cost of adaptation/new build (TVP operate an estate policy of delivering new accommodation principally through the adaptation of existing buildings as opposed to new build at a 90:10 ratio. As this development will generate 0.25 (rounded down) staff/officers the cost is £5165 (16.88 x 1800 x 0.17)

VEHICLES

The purchase of vehicles including response and neighborhood patrol cars and bicycles. The (three year lifetime) capital costs of these items are;

Patrol Vehicle – £42,300

PCSO Vehicle - £25,960

Bicycles - £800

Current fleet deployment within Cherwell administrative area (therefore serving 56,700 households) is broken down as follows;

Patrol Vehicle – 18

PCSO Vehicle - 12

Bicycles – 15

This equates to a cost of £19.13 per household. Accordingly therefore in order to maintain this level of provision the development would generate a required contribution of £1,043 (19.13 x 54)

MOBILE IT

Provision of mobile IT capacity to enable officers to undertake tasks whilst out of the office, thus maintaining a visible presence. Cost of each item - £4250, therefore for this development (which generates 0.15 additional uniformed officers, the cost would be £637.50 (4250 x 0.21).

RADIO COVERAGE/AIRWAVE CAPACITY

Radio Coverage/Capacity – TVP is currently at capacity with regard to its coverage, therefore each additional household places an additional burden upon our communications ability. TVP roll out a programme of capacity enhancements and improvements of £368,467p.a that is based on a cost of 0.40 per household. These improvements are expected to last for 5 years, by which time the telecom capacity will be able to absorb this additional demand. Therefore the cost of this contribution would amount to £108 (.40 x 54 x 5)

ANPR CAMERAS

Automatic Number Plate Recognition (ANPR) Cameras – TVP has a desire to roll out ANPR Cameras throughout the area. There is a limited budget for this at present but a requirement to roll out more cameras. The number and location of cameras is driven by the scale and location of proposed development and the road network in the area. Current coverage in Cherwell is extremely limited. An

An assessment based on the significant planned growth within Cherwell District has been undertaken and it has been assessed that there is a requirement for additional ANPR camera coverage in the area to mitigate the impact of planned growth. Each camera costs £11,000, and requirement is assessed on the basis of the scale, location, and proximity to the road network of the proposed development. Operationally it has been determined that this development should support the contribution of **£3000** towards the provision of ANPR in the area.

CONTROL ROOM AND POLICE NATIONAL DATABASE CAPACITY

At present Police control room handling is used to capacity at peak times. Our various call handling centre's deploy resources to respond to calls as quickly as possible. We are able to assess the capacity of the existing technology and calls currently dealt

with (based on the minimum times with callers) and are able to assess the additional impact of growth upon this capacity. Existing lines, telephony, licenses, IT, workstations and monitoring will be required on the basis of **£15.75** per unit. Therefore the cost generated by this development would be **£850.5 (15.75 x 54)**.

Developer contributions are necessary to ensure development is in line with the wider objectives of sustainable development as set out in national and local planning policy. The infrastructure identified above has been specifically identified as infrastructure required to deal with the likely form, scale and intensity of incidents that the development will generate.

Two recent appeal decisions in Leicestershire (APP/F2415/A/12/217984 & APP/X2410/A12/2173673 assesses the request from Leicestershire police for developer contributions towards infrastructure. These appeal decisions confirms that the approach of TVP in assessing the impact of development, having regard to an assessment of the potential number of incidents generated by growth is appropriate, and fundamentally it confirms that police infrastructure should be subject to developer contributions as the provision of adequate policing is fundamental to the provision of sustainable development. These comments can be seen in full on the application details on the Council's website.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

C8:	Sporadic development in the countryside
H13:	Category 1 Settlements
H18:	New dwellings in the countryside
C2:	Protected Species
C5:	Creation of new habitats
C7:	Harm to the topography and Character of the Landscape
C9:	Beyond the existing and planned limits of Banbury and Bicester
C13:	Area of High Landscape Value
C27:	Development in villages to respect historic settlement pattern
C28:	Layout, design and external appearance of new development
C30:	Design of new residential development
C33:	Protection of important gaps of undeveloped land
R12:	Public Open Space provision
ENV1:	Development likely to cause detrimental levels of noise & smell
ENV12:	Contaminated land
TR1:	Transportation funding

4.2 Other Material Policy and Guidance

National Planning Policy Framework 2012 – Core planning principles and the delivery of sustainable development with regard to the following sections:-

- 4: Promoting sustainable transport
- 6: Delivering a wide choice of high quality homes
- 7: Requiring good design
- 8: Promoting healthy communities
- 10: Meeting the challenge of climate change and flooding

11: Conserving and enhancing the natural environment

The site is not identified for development in the Non-Statutory Cherwell Local Plan 2011. Whilst some policies within the Plan may remain to be material considerations, other strategic policies have in effect been superseded by those of the Submission Local Plan (January 2014). The relevant policies are

- Policy H15: Category 1 Settlements
- Policy H19: New dwellings in the countryside
- Policy EN3: Pollution Control
- Policy EN30: Sporadic development in the countryside
- Policy EN31: Beyond the existing and planned limits of Banbury and Bicester
- Policy EN34: Conserve and enhance the character and appearance of the landscape

4.3 Submission Local Plan 2006 - 2031

A new Local Plan (Part 1) was submitted to the Secretary of State on 31 January 2014 for Examination. Following Hearings in June 2014, Proposed Modifications were submitted on 21 October 2014. Hearings continued from 9 December 2014 to 23 December 2014. The Inspector's report is expected in the Spring of 2015. The site is not identified as a strategic housing site in the new Local Plan. The draft policies of most relevance (as proposed to modified) are:

Policy villages 1: Hook Norton is identified as a Category a village where infilling, minor development and conversions will be permitted.

Policy Villages 2: Distributing Growth across the rural areas

Policy BSC3: Provision of affordable housing. In rural settlements proposals for residential development of 3 or more dwellings will be expected to provide at least 35% affordable homes on site.

Policy BSC4: Housing Mix expects new residential development to provide a mix of homes to meet current and expected future requirements having regard to evidence on housing need and market conditions.

Policy ESD 3: Sustainable construction. All new homes are expected to meet at least Code Level 4 of the Code for Sustainable Homes.

Policy ESD 7: Sustainable drainage. All development will be required to use SUDS for the management of surface water run-off.

Policy ESD 10: Protection and enhancement of biodiversity and the natural environment.

Policy ESD13: Local Landscape Protection and Enhancement expects developments to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided

Policy ESD16: the character of the built and historic environment should be protected and where development is allowed it should respect the local character context.

5. *Appraisal*

5.1 The key issues for consideration in this application are:

- Relevant Planning History
- Planning policy and the Principle of development
- Five year housing land supply
- Prematurity
- The impact of odour & Insects from Redland Farm
- Design and Access Statement
- Landscape impact and visual amenity
- Transport assessment
- Ecology
- Flooding and drainage
- Archaeology
- Delivery of the Site
- Planning obligation

Relevant Planning History

- 5.2 An application for 70 houses on a site to the west of the application site was granted outline planning permission on appeal by the Secretary of State on 23rd September 2013 (APP/C3105/A/12/2184094). The Secretary of State, in making his decision, concluded that although the proposal would be contrary to some of the policies in the out of date adopted Local Plan, the Council did not have a five year housing land supply, so little weight could be given to the relevant housing policies in the development plan. He considered Hook Norton to be a sustainable location for development. Whilst he acknowledged that development of the site would cause some moderate and localised harm to the character and appearance of the countryside he was satisfied that this would be limited and would not significantly and demonstrably outweigh the benefits of the scheme.
- 5.3 Application Ref; 14/00844/OUT, involved the construction of market and affordable dwellings, with all matters reserved except for access arrangement. The illustrative Development Framework Plan which accompanied the application indicated that 54 dwellings could be accommodated on the site, 35% of which will be affordable. The application also proposed supporting uses including a proposed green infrastructure, Local equipped play area, proposed planting, a 'balancing pond' along the south east boundary at the low point of the site. It was proposed to retain existing trees and hedgerows where possible.
- 5.4 That application was presented to the Planning Committee on 5th September 2014 with a recommendation for refusal. The reports to Committee identified conflicts with the development plan and harm caused by the development as a result. The members of the Planning Committee considered the matter and determined that the benefits of the development did not warrant approval given the significant and demonstrable harm identified and permission was refused on 5th September 2014 for the following reasons:-

"1. Notwithstanding the Council's present inability to demonstrate that it has a 5 year housing land supply as required by paragraph 47 of the NPPF, the development of this site cannot be justified on the basis of the land supply shortfall alone. The applicant has failed to adequately demonstrate that the proposed development would not be adversely affected by the activities associated with the Intensive Dairy Unit at Redlands Farm immediately to the north, resulting in an unacceptable living environment for the occupiers of the new dwellings. As such the development is considered to be unsustainable and the proposed would be contrary to the thrust of Policy ENV1 of the adopted Cherwell Local Plan and Government advice within the National Planning Policy Framework which seeks to ensure high quality design and a good standard of

amenity for all existing and future occupants of land and buildings.

2. In the absence of a satisfactory planning obligation, the Local Planning Authority is not convinced that the infrastructure and affordable housing directly required as a result of this scheme will be delivered. This would be contrary to Policy H5 of the adopted Cherwell Local Plan, Policy INF1 of the Submission Local Plan and government guidance within the National Planning Policy Framework.”

5.5 An appeal was lodged against the Councils refusal of planning permission and an inquiry into the appeal was opened on 13th January 2015. The Inquiry site visit and Closing Statements have been postponed until 31st March 2015. The Council confirmed on 9th December 2014 before the inquiry that matters associated with noise were no longer an issue and effectively withdrew this part of the reason for refusal.

5.6 The Council however maintains that the proposed mitigation features to improve the situation were not robust enough. Smell and flies are the most serious potential nuisance and will cause significant and demonstrable harm. The harm will affect both future occupiers of the proposed land and Redlands Farm. The effect on the residents of the proposed housing development because of harm to their living environment and harm to Redlands Farm because of pressure to change its operations in response to likely complaints will constitute a significant and demonstrable harm when weighed against the benefits and planning permission should not be granted.

Planning Policy and the Principle of Development

5.7 The Development Plan for the District 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 is 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 purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

5.8 The site in question is not allocated for development in any adopted or draft plan forming part of the development plan. Hook Norton is designated as a category 1 settlement in the adopted Cherwell Local Plan. Policy H13 of that Plan states that new residential development within the village will be restricted to infilling, minor development comprising small groups of dwellings within the built up area of the settlement, or the conversion of non-residential buildings. The site is not within the built up limits of the village and is therefore in open countryside. Policy H18 of the adopted Cherwell Local Plan restricts new dwellings beyond the built up limits of settlements, in open countryside to those which are essential for agriculture, or other existing undertakings, or where dwellings meet a specific and identified housing need that cannot be met elsewhere. These policies are carried through in the non-Statutory Cherwell local Plan. The adopted Cherwell Local Plan contains no specific allocation for this site and the proposal clearly does not comply with this policy criterion and therefore represents development beyond the existing built up limits of the village into open countryside. The proposal therefore, needs to be assessed against Policy H18 which limits residential development beyond the existing built up limits of settlements unless they are agricultural workers dwellings and affordable housing. Quite clearly the development fails to comply with this policy and in doing so also potentially conflicts with rural conservation Policy C7 which does not normally permit development which would cause harm to the topography and character of the landscape. Policy C8 seeks to prevent sporadic development in the open countryside but also serves to restrict

housing development. Policy ENV1; including paragraph 10.5 which states that “ Where a source of pollution is already established and cannot be abated, the Council will seek to limit its effect by ensuring that development within the affected area maintains a suitable distance from the pollution source”

National Planning Policy Framework

5.9 Paragraph 49 of the NPPF states ‘housing applications should be considered in the context of a presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable sites.

5.10 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 (paragraph 7). It also provides (paragraph 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 developments in locations which are, or can be made sustainable
- Deliver sufficient community and cultural facilities and services to meet local needs
-

The NPPF 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

- 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

5.11 The Adopted Cherwell Local Plan 1996 is out of date in relation to the policies regarding delivery of housing. The NPPF advises that due weight should be given to relevant policies within existing plans according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the Framework, the greater the weight may be given). The Development Plan (the adopted Cherwell Local Plan) contains no up to date policies addressing the supply of housing and it is therefore necessary to assess the application in the context of the presumption in favour of sustainable development as required by the NPPF.

- 5.12 Whilst it is acknowledged that Hook Norton is one of the more sustainable villages, this does not necessarily mean that the proposal itself constitutes sustainable development. The NPPF sets out three dimensions to sustainable development, those being economic, social and environmental which are considered below. In respect of the appeal at Bourne Lane, it is important to note that due to the range of facilities within the village, and the inclusion of Hook Norton as a category 1 settlement, that he concludes that Hook Norton is a sustainable location. He also concluded that whilst the village does not have a piped gas supply and that electricity supply, and broadband connectivity can be poor, that these did not alter his overall assessment of the range of facilities available within the village.
- 5.13 In relation to the economic role, the NPPF states that the planning system should do everything it can to support sustainable economic growth and the development is likely to provide jobs during the construction phases of the scheme, and in the longer term provide economic benefit to local shops and businesses. This was also acknowledged by the Inspector in the Bourne Lane appeal.
- 5.14 In terms of environmental, the development must contribute to the protection and enhancement of the natural, built and historic environment by improving biodiversity. Whilst this is a green filed site and its loss will cause harm to the character and appearance of the countryside, this would be limited by short distance views within the immediate vicinity of the site. The development proposal also includes area of public open space, landscaping and additional tree and hedge planting. Conditions can be imposed to ensure that an ecological enhancement scheme is carried out as part of the development.

Five Year Housing Land Supply

- 5.15 Section 6 of the NPPF 'delivering a wide choice of high quality homes' requires local planning authorities to significantly boost the supply of housing by identifying key sites within the local plan to meet the delivery of housing within the plan period and identify and update annually a 5 year supply of deliverable sites within the district.
- 5.16 Paragraph 031 Reference ID: 3-030-20140306 of the Planning Practice Guidance – Housing and Economic Development Needs Assessments states that the NPPF sets out that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements. Therefore local planning authorities should have an identified five-year supply at all points during the plan period. Housing requirement figures in up-to-date adopted local plans should be used as the starting point for calculating the five year supply. Considerable weight should be given to the housing requirement figures in adopted local plans, which have successfully passed through the examination process, unless significant new evidence comes to light. It should be borne in mind that evidence which dates back several years, such as that drawn from revoked regional strategies, may not adequately reflect current needs.
- 5.17 Where evidence in local plans has become outdated and policies in the emerging plans are not yet capable of carrying sufficient weight, information provided in the latest assessment of housing needs should be considered. But the weight given to these assessments should take account of the fact they have not been tested or moderated against relevant constraints. Where there is no robust recent assessment of full housing needs, the household projections published by the Department for Communities and Local Government should be used as the starting point, but the weight given to these should take account of the fact they have not been tested (which could evidence a different housing requirement to the projection, for example, because of past events that affect the projection are unlikely to occur again or because of market signals) or moderated against relevant constraints (for example environmental or infrastructure).

- 5.18 The latest published position on the district's housing land supply is the Housing Land Supply Update June 2014. This states that the five year supply of deliverable sites for 2014-2019 is 3.4 years. This includes a requirement for an additional 20% buffer and makes us the delivery shortfall (2314 homes) within the next five years. The projection for 2015-2020 is 3.4 years supply. The calculations do not include new deliverable sites permitted since June 2014 and the land supply position will shortly be reviewed.
- 5.19 The Oxfordshire Strategic Marketing Assessment (SHMA) 2014 was commissioned by West Oxfordshire District Council, Oxford City Council, South Oxfordshire District Council, Vale of White Horse District Council and Cherwell District Council and provides an objective assessment of housing need. It concludes that Cherwell has a need for between 1,090 and 1,190 dwellings per annum. 1,140 dwellings per annum is identified as the mid-point figure within that range.
- 5.20 The Planning Inspector appointed to examine the Local Plan made clear his view that the SHMA document provided an objective assessment of housing need in accordance with the NPPF and suspended the Examination to provide the opportunity for the council to propose 'Main Modifications' to the Plan in the light of the higher level of need identified. The 1,140 per annum SHMA figure represents an objective assessment of need (not itself the housing requirement for Cherwell) and will need to be tested having regard to constraints and the process of Strategic Environmental Assessment/Sustainability Appraisal. However, the existing 670 dwellings per annum housing requirement of the submission Local Plan (January 2014) should no longer be relied upon for the purpose of calculating the five year housing land supply. Until 'Main Modifications' are submitted to the Secretary of State for Communities and Local Government, the objectively assessed need figure of 1,140 homes per annum from the SHMA is considered to be the most robust and defensible basis for calculating the five year housing land supply.
- 5.21 A further Housing Land Supply Update (June 2014) has been approved by the Lead Member for Planning. It shows that the District now has a 3.4 year housing land supply which includes an additional 20% requirement as required by the NPPF where there has been persistent under-delivery. It also seeks to ensure that any shortfall in delivery is made-up within the five year period. The District does not therefore have a 5 year housing land supply and as a result of the NPPF advises in paragraph 14 that planning permission should be granted unless 'adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this framework taken as a whole.'
- 5.22 However, notwithstanding the Council's Housing Land Supply position, it should be noted that the NPPF does not indicate that in the absence of a five year supply that permission for housing should automatically be granted for sites outside of settlements. There remains a need to undertake a balancing exercise to examine any adverse impacts of a development that would significantly and demonstrably outweigh the benefits.

Submission Cherwell Local Plan

- 5.23 The Submission Local Plan (January 2014) (SLP) has been through public consultation and was submitted to the Secretary of State for examination in January 2014, with the examination beginning in June 2014. The Examination was suspended by the Inspector to allow further work to be undertaken by the Council to propose modifications to the plan in light of the higher level of housing need identified through the Oxfordshire Strategic Housing Market Assessment (SHMA), which is an objective assessment of need. Proposed modifications to meet the Objectively Assessed Need have been through the consultation period and were approved unanimously by full Council on 20th October 2014 and the 'Examination in Public' reconvened between 9th

December 2014 and 23rd December 2014. The Inspectors decision is expected in early spring of 2015. Although this plan does not have Development Plan status, it is a material Planning consideration because the Plan is in an advanced stage of scrutiny because Examination is complete and weight can be placed on it as an emerging policy document. The plan sets out the Council's strategy for the District to 2031. The policies listed below are therefore considered to be material to this case:

- 5.24 Policy Villages 1 of the Plan designates Hook Norton as a Category A village, and therefore one of the Districts most sustainable based on criteria such as population, size, range of services and facilities and access to public transport. Policy Village 2 seeks to distribute the amount of growth that can be expected within these villages, although how the numbers will be distributed is not specified as precise allocations within each village would be set out in the Local neighbourhoods Development Plan Document, based on evidence presented in the SHLAA. This document is to be prepared following the adoption of the emerging local plan.
- 5.25 It is evident from the above that the proposed development is contrary to policies within the adopted Cherwell Local Plan and is not allocated for development within the Submission Cherwell Local Plan. As previously expressed however, the Adopted Cherwell Local Plan is out of date in terms of allocating land for new housing development, and the Submission Cherwell local Plan currently carries limited weight in the consideration of new development proposals. As such a refusal based on these grounds alone is unlikely to be defensible at appeal and has to be weighed against other material considerations, the most significant being the need to provide a five year housing land supply.
- 5.26 However, notwithstanding the Council's Housing Land Supply position as stated above, the proposal would give rise to conflict with a number of policies in the adopted Cherwell Local Plan, Non-Statutory Cherwell local Plan and the Submission Local Plan. Paragraph 14 of the Framework makes it clear that there is a presumption in favour of sustainable development and that permission should be granted unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against policies in the Framework taken as a whole. It does not however indicate that an absence of a five year land supply means that permission should automatically be granted for sites outside settlements. There remains a need to undertake a balancing exercise to examine any adverse impacts of a development that would significantly and demonstrably outweigh the benefits of it and also the harm that would be caused by a particular scheme in order to see whether it can be justified. In carrying out the balancing exercise it is, therefore, necessary to take into account policies in the development plan as well as those in the Framework. It is also necessary to recognise that Section 38 of the Act continues to require decisions to be made in accordance with the development plan and the Framework highlights the importance of the plan led system as a whole. The identified issues of acknowledged importance are identified and considered below.

Prematurity in the context of , and / or prejudice to the Submission Cherwell Local Plan and Hook Norton Neighbourhood Plan

Submission Cherwell Local Plan (SCLP)

- 5.27 Whilst the application site is not allocated for development in the adopted Cherwell Local Plan, the wider site has been included as Strategic Housing Land Availability Assessment (SHLAA) (Update 2014) site HO030 which is a site considered to be available for development, although it must be considered in terms of odour and noise impacts arising from the immediately adjoining land use of the dairy farm. The application therefore relates to a release of housing land ahead of the on-going independent Examination of the Local Plan's proposals and policies.

5.28 One of the NPPF's core planning principles (para' 17) requires planning to "be genuinely plan-led, empowering local people to shape their surroundings..." The issue of 'prematurity' must therefore be considered. The guidance within the NPPG with relation to the issue of prematurity is as follows:

"In the context of the National Planning Policy Framework and in particular the presumption in favour of sustainable development arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both:

- a. the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning; and
- b. the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area."

5.29 Refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a Neighbourhood Plan, before the end of the local planning authority publicity period. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process.

5.30 The Local Plan has now reached an advanced stage. It has been through several rounds of consultation and is now supported by an extensive evidence base. It has been submitted for Examination with the hearings completed. The Submission Local Plan policies are considered to be generally consistent with the NPPF. It is considered that the first and third bullet points of paragraph 216 of the NPPF are met and therefore some weight can be given to the Submission Local Plan policies.

5.31 Prematurity is 'unlikely' to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the NPPF and any other material considerations into account. The development proposed is not considered to be of such a scale and importance that it would prejudice the outcome of the plan-making process. In these circumstances, it is considered that dismissal of the appeal on the grounds of prematurity in relation to the SCLP is not justified where the SCLP is at an advanced stage but not yet part of the development plan. It will therefore not be premature to release the site for development ahead of adoption of the Local Plan.

Submission Hook Norton neighbourhood plan

5.32 The Hook Norton Neighbourhood Plan has been consulted upon, submitted, and is currently the subject of an Examination. A Consultant Statement has been produced. There are outstanding objections to the Plan. The Plan includes other policies on matters of detail including Policy HN - H3: Housing density and Policy HN - H4: Types of housing. The Neighbourhood Plan comments that there was not public support for development on the 'field between the School and Redlands Farm' and seeks to restrict size of developments in individual locations to 20 dwellings. However, It is considered that the weight that that can be attached to the Submission Neighbourhood Plan in the context of unresolved objections and issues will be limited. The development proposed is not considered to be substantial and neither would its cumulative effect be so significant as to undermine the plan-making process to an emerging Local Plan or Neighbourhood Planning. As the Submission

Cherwell Local Plan is at Examination stage, and the Neighbourhood plan has not yet been examined, it cannot be considered to be in conformity with that Local Plan.

The impact of Odour and Insects from Redlands Farm

- 5.33 Paragraph 14 of the NPPF makes it clear that there is still a requirement to carry out a balancing exercise in order to determine whether a scheme can be justified. In carrying out this balancing exercise, it is necessary to take account of the policies in the Framework as well as development plan policies.
- 5.34 Paragraph 49 states very clearly that the NPPF must be read in the context of delivering sustainable development. It is not therefore intended simply to address numbers in terms of housing growth but continues to place sustainable growth at the centre of decision making. This is clearly not the case with the appeal proposal. Paragraph 14 advises granting permission, where relevant policies are out of date, unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole. The effect on the residents of the proposed housing development because of harm to their living environment and harm to Redlands Farm because of pressure to change its operations in response to likely complaints will constitute a significant and demonstrable harm when weighed against the benefits and planning permission should not be granted.
- 5.35 The site is situated to the south of Redlands Farm, a dairy farm. The livestock on site comprise 400 high yielding dairy cows together with female replacements. Production is 4 million litres of milk per annum on a level profile for the domestic liquid market. The unit has a turnover of £1.5 million per annum employing 3 full time and 5 part time staff all of whom live locally. It is an arable and dairy unit with the field work being carried out by a contractor. The dairy unit is labour intensive, but the arable is highly mechanised with a low staff requirement.
- 5.36 Odour will arise from animal waste and urine that comes from the animals within the building; from the slurry lagoon and from the silage clamp, as well as from the general activities on site. The odour sources will be diffuse in nature from the buildings and general farm area. The release of odour will fluctuate according to the activities being undertaken. Odour will generally increase when manure is being cleared from the farm yard, slurry is being pumped and when silage is removed from the clamp. Good silage production will tend to have a sweet smell due to the production of lactic acid in the fermentation process, and the odour is only released when the silage clamp is disturbed for the removal of feed. The amount of odour generated will also depend on temperature, with higher amounts of odour being released in summer months due to higher biological activity.
- 5.37 The current application does not differ significantly from the submission considered at appeal and the applicants technical submissions in respect of odour, insects and noise that are included as part of this application were taken into account during the course of the appeal. In respect of odour and insects the Councils objections remain and that view is supported with reference to paragraphs 2.3 and 2.4 of the inquiry proof of evidence for appeal Ref; APP/C3105/A/14/2226552
- 5.38 From an environmental perspective, the potential impacts arising from the sites proximity to Redlands Farm are paramount. Redlands Farm operations have the potential to give rise to odour and in some circumstances increased numbers of insects all of which could affect residential properties that were located too close to the farming operation.
- 5.39 A range of insects are often found in association with housed livestock and are difficult to control at source. A good proportion of the appeal site would be within the flying range of these species and the proposed dwellings could be considered at risk from

annoyance caused by their presence. The presence of insects is not a matter that can be subjectively assessed and in many respects it is linked to the odour generating potential of activities on the farm site. The applicants have not demonstrated that odour from Redlands farm will not impact on their proposed development.

- 5.40 Residents living in proximity to the site have stated that odour and noise are an issue from the farm at certain times of the day and year. He also comments that several properties in Sibford Road have commercial fly killing machines to deal with the flies from the slurry pit. Complaints from residents in the new development could consequently have an impact on the viability of the farm.
- 5.41 The submission by the applicants provides no evidence to the contrary that there will not be an increased nuisance to those living progressively closer to the dairy unit beyond the existing built edge of the village. Notwithstanding the revised format of the submitted odour assessment, it is considered that the baseline data is insufficient to give the Council confidence that the odour impact has been fully assessed.
- 5.42 There was a failure to provide an assessment of the odour emissions, no indication as to the time of day when these observations were made and prevailing weather conditions, no indication of the strength of the odour noted or the exact position where the assessment was made. Baseline data which was based on a single site visit was not enough and was not sufficiently robust to demonstrate that the farm would have no adverse impact through odour emissions on the proposed dwellings.
- 5.43 The applicants are choosing to rely on vegetation that is already established on the Redlands Farm site. Equally they suggest that a 3.5 metre noise barrier may have some benefit in creating air movement and dispersing odour but no conclusive proof was included in the odour assessment to confirm this effect.
- 5.44 The applicants have recently submitted a revised Odour Assessment in support of this revised application , which they relied on for this application. The observational assessment has been updated by the inclusion of additional site assessments carried out in the period between 22nd September and 17th October 2014. Whilst these assessments have covered a range of wind directions, information on the odour impact over a range of air temperatures and climatic stabilities is lacking. As it emerged at the inquiry the Council did not accept the view as the odour monitoring exercises were carried out at times of day when the most malodorous activities on the farm were taking place. Equally during wind conditions favourable to the applicants position odours of significant strength were detected on the application site.
- 5.45 Policy ENV1 comes under the broad heading “Environmental Protection”. The Policies in this chapter seek to protect the environment and prevent pollution through the control of development. Developments likely to cause materially detrimental levels of noise, vibration, smell, smoke, fumes or other type of environmental pollution will not normally be permitted. The Council will seek to ensure that the amenities of residential properties are not unduly affected by development which may cause environmental pollution.
- 5.46 The Council states that the harm identified is considered to be so significant that the benefits of housing that the proposal would bring to the Councils Land Supply position are not significantly and demonstrably outweighed. As such, the proposal is not considered to constitute sustainable development in line with the NPPF and Policy ENV1 of the Submission Draft Local Plan.

Design and Access Statement

- 5.47 A design and access statement including a revised addendum document with additional

information to support the design and access statement submitted with the outline planning application for the site in May 2014. The additional information was submitted in response to officers comments regarding more information on the analysis of the local morphology and vernacular, with design and layout cues being taken from the historic core rather than examples of 20th Century development within the village. The design and access statement sets out the framework for the proposed development of the site. An illustrative masterplan has also been submitted. The masterplan indicates that 54 dwellings can be accommodated within the site and indicates an attenuation feature and play space in the south eastern corner of the site adjacent to the primary school boundary. The submitted statement contains an appropriate level of design analysis which generally supports the overall design approach for the site, the applicants were The statement also proposed dwellings of up to 3 storeys in height and gable spans up to 12m in width which were not considered to be acceptable for this site. The Statement has addressed the requirements of the noise assessment which concluded that the mitigation measures should include a 3.5m high acoustic fence/and or bund.

- 5.48 The statement has been amended to indicate gable spans between 5-8m and a maximum ridge height of 10.5m and natural ironstone is now suggested along the Sibford Road frontage and other key locations within the development. The layout of the development and location of the primary area of public open space has been informed by the Landscape and Visual Appraisal . Locating the play area and public open space to the south east provides an effective landscape buffer and potential for new structural planting to mitigate both landscape and visual effects on the countryside to the east. The proposed LEAP is located within 400m walking distance of all proposed new residential properties and natural surveillance is provided by housing which would front onto areas of public open space. There is sufficient open space on site for a LAP to be provided on site. The precise location, size and design of the play areas would be agreed at the reserved matters stage.

Landscape Impact and Visual Amenity

- 5.49 The site lies beyond the built-up limits of the village in an area of open countryside. Policy C7 of the adopted Cherwell Local Plan seeks to resist development if it would result in demonstrable harm to the topography and character of the landscape and the explanatory text states that tight control should be exercised over all development proposals in the countryside if the character is to be retained and enhanced. The site is within an area designated locally as being of High Landscape Value and an assessment of the proposal must therefore be made under Policy C13 of the adopted Cherwell Local Plan which seeks to conserve and enhance such areas. Careful consideration of the scale and type of development is necessary to protect the character of the designated areas. Policy EN34 of the Non-Statutory Cherwell Local Plan seeks to conserve and enhance the character and appearance of the landscape although the formal designation relating to the Area of High Landscape Value has been removed. This does not mean however that landscape quality is no longer important. The landscape significance of these areas is carried through in the Submission Local Plan through Policy ESD13 which seeks to conserve and enhance the distinctive and highly valued local character of the entire district. The NPPF also advises that the open countryside should be protected for its own sake.
- 5.50 Paragraph 113 of the NPPF states that Local Planning Authorities should set criteria based policies against which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. Distinctions should be

made between the hierarchy of internal, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution they make to wider ecological works.

- 5.51 Paragraph 115 advises that great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and areas of Outstanding natural Beauty which have the highest status protection in relation to landscape and scenic beauty. The site does not lie in any nationally designated landscape, such as a National park or Area of Outstanding Beauty (AONB) but it does lie within an area designated locally as an 'Area of High Landscape Value'. There are no Tree Preservation Orders on or adjacent to the site.
- 5.52 The application is accompanied by a Landscape and Visual Impact Appraisal which has been prepared based on the 'Guidelines for Landscape and Visual Impact Assessment published by the Landscape institute of Environmental Management and Assessment 2013. It has been reviewed by the Council's Landscape Officer who considers it to be a fair assessment of the likely impact of the development, although the assessment was carried out in summer when screening is at its best. However, the impacts will not be greatly increased in winter as they are generally low in the first place. The report concludes that the landscape effects and visual effects of the proposed development are unlikely to have any significant adverse effect on area 'negligible impact'.
- 5.53 In terms of the characteristics of the site, it is physically constrained to all boundaries of the site by existing hedgerows and trees. Being an open agricultural field bounded by trees and hedges this is not uncharacteristic of this landscape area and not of such rarity and scenic quality to indicate a landscape of more than local value. There are no public rights of way across the site.
- 5.54 A number of viewpoints have been reviewed by the LVIA which have been taken from nearby settlements and residential properties, public rights of way and road network as well as recreational areas. Views from various points within the immediate vicinity of the site along the Sibford Road and the public right of way opposite which demonstrate that views into the site are limited and generally screened by the existing vegetation. In terms of more long distance views from the wider landscape and open countryside, the appraisal concludes that whilst the site and Redlands Farm are glimpsed from higher ground, the site is largely screened by intervening vegetation and the existing trees and hedgerows around the site and seen against the backdrop of the existing village.
- 5.55 It is accepted that the development proposed by virtue of its nature, being the development of a green field site beyond the existing built up limits of the village into open countryside will result in localised harm within the immediate vicinity of the site, and the introduction of houses, access roads and associated domestic paraphernalia onto the site would have an urbanising effect. However the visibility of the site within the wider area is restricted by intervening vegetation built development and topography. The proposal is therefore unlikely to adversely impact on the Area of High Landscape value or the adjacent Cotswolds AONB. Having regard to the above and the Landscape Officers comments, it is considered that the development proposed, which would be predominantly two storeys would not appear unduly prominent or obtrusive and therefore the visual impact of the development would not be of significant and demonstrable harm as described within the NPPF to justify refusal of the application on landscape impact and harm to the open countryside.
- 5.56 An arboricultural assessment has also been submitted as part of the application which has been assessed by the council's arboricultural officer who has not raised any objections to the proposal. There are no trees within the site itself, as tree cover is confined to the peripheries and it is stated therefore that no significant tree loss will be required to facilitate the development. The main vehicular access for the proposed

development is to be positioned to the south western end of the site where a small section of hedge will need to be removed. The proposed vehicular access will be positioned within the Root Protection Area of T1 and this report therefore recommends that the access should be constructed using tree friendly techniques to reduce the risk of root severance and significantly reduce soil compaction.

Archaeology

- 5.57 The archaeological desk based assessment submitted as part of the application states that there are no designated heritage assets within the study site or its vicinity and that there would be no impact on the Hook Norton Conservation Area or the listed buildings within it. The assessment also states that there are no known non-designated archaeological assets within the study site and there is a low potential for the survival of unknown buried archaeological remains.
- 5.58 The County Archaeologist has commented on the application stating that the site lies within an area of some archaeological deposits to survive on site. Section 12 of the NPPF sets out planning guidance concerning archaeological remains and the historic environment. Paragraph 126 emphasises the need for local planning authorities to set out a clear strategy for the conservation and enjoyment of the historic environment, where heritage assets are recognised as an irreplaceable resource which should be preserved in a manner appropriate to their significance.
- 5.59 Having regard to the above, it is recommended that the applicant should be responsible for ensuring the implementation of a staged programme of archaeological investigation to be maintained during the period of construction.

Ecology

- 5.60 The application is accompanied by an Ecological Appraisal which sets out the findings of the desk top study and Extended Phase 1 Habitat Survey undertaken on 3 September 2013. It confirms that the site is not within a statutory or non-statutory designated site. In addition the site is not within 5km of any statutorily designated sites of international importance although the study boundary is within 2.3km of the Cotswolds AONB and is within 2km of the Hook Norton Cutting and Banks SSSI..
- 5.61 In terms of non-statutory designations, data obtained from TVERC indicates the presence of part of the Swere Valley and Upper Stour Conservation Target Area running around Hook Norton to the south east and west and lying approximately 530m south east of the boundary at its nearest point. This is a landscape scale designation that has been identified as supporting high concentrations of habitat and species of principal importance under the NERC Act.
- 5.62 There were four non-statutory sites within 1km of the study boundary, Cradle and Grounds Farm Banks was identified as a Local Wildlife Site (LWS), Park Farm Quarry and Hook Norton Cutting North are Local Geological Sites (LGS) and the Hook Norton BBOWT Reserve.
- 5.63 The study area comprises arable farmland which supports a very limited diversity of associated species and is therefore considered to be of negligible nature conservation value. The boundary hedgerows provide some structure and diversity. The study states that the hedgerows are of intrinsic value and recommends that they are retained and buffered from residential development where possible. H4 which is the hedge to the Sibford road boundary was identified as 'important' under the Hedgerow Regulations and due to its high structure and diversity scores considered as having high to very high ecological value. It further recommends that should existing hedges be removed, compensation in the form of native species planting providing linkages across the site or enhancement of retained hedgerows should be incorporated into the landscaping

proposals.

- 5.64 No records of badger setts were returned in the desk study within 1km of the site boundary and no evidence of badger activity was recorded on the site as a result of the walkover survey. No records of bat roosts or sightings were identified within the study boundary in the desk top study although there are records of bats within 1km of the site. There was no evidence that the hedgerows and associated trees bordering the study area had to be used by roosting bats, although they do provide commuting and foraging corridors. Enhancement and mitigation measures to ensure that no significant impacts upon bat species are anticipated to include additional and reinforced hedge planting, bat boxes and a sensitive lighting strategy.
- 5.65 All birds, their nests and eggs are protected under Section 1 of the Wildlife and Countryside Act 1981 (as amended). The appraisal therefore recommends that any hedge/vegetation be removed outside the bird nesting season and that additional native hedge planting occurs.
- 5.66 The NPPF – Conserving and Enhancing the Natural Environment, requires at paragraph 109 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 establishing coherent ecological works that are more resilient to current and future pressures.
- 5.67 Section 40 of the Natural Environment and Communities Act 2006 (NERC 2006) states that ‘every public authority must in exercising its functions, have regard to the purpose of conserving (including restoring/enhancing) biodiversity’ and:
- 5.68 Local Planning Authorities must also have regard to the requirements of the EC Habitats Directive when determining an application where European Protected Species are affected, as prescribed in Regulation 9(5) of Conservation Regulations 2010, which states that a ‘competent authority’ in exercising their functions, must have regard to the requirements of the Habitats Directive as far as they may be affected by the exercise of those functions’.
- 5.69 Articles 12 and 16 of the EC Habitats Directive are aimed at the establishment and implementation of a strict protection regime for animal species listed in Annex IV(a) of the Habitats Directive within the whole territory of the Member States to prohibit the deterioration or destruction of their breeding sites or resting places.
- 5.70 Under Regulation 41 of the Conservation Regulations 2010 it is a criminal offence to damage or destroy a breeding site or resting place, but under Regulation 53 of the Conservation Regulations 2010, licences from Natural England for certain purposes can be granted to allow otherwise unlawful activities to proceed when offences are likely to be committed, but only if 3 strict derogation tests are met:-
1. is the development needed for public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature (development)
 2. is there a satisfactory alternative
 3. is there adequate mitigation being provided to maintain the favourable conservation status of the population of the species
- 5.71 Therefore where planning permission is required and protected species are likely to be found present at the site or surrounding area, Regulation 53 of the Conservation of Habitats and Species Regulations 2010 provides that Local Planning Authorities must have regard to the requirements of the Habitats Directive as far as they may be affected by the exercise of those functions and also the derogation requirements might

be met.

- 5.72 The Council's Ecologist has assessed the Ecological Appraisal which has been submitted with the application and is satisfied that no evidence of any protected species using the site was found and that the likelihood of any being present was considered to be negligible. There is considerable scope for biodiversity enhancements on site and in general the layout suggested in the design and access statement would offer some gains for biodiversity if appropriately managed. Enhancements should also be included within the built environment. A number of conditions are therefore suggested to be included within any permission to ensure adequate mitigation and enhancements are included as part of the development. This report has also been assessed by Natural England who raise no objections.
- 5.73 Consequently it is considered that Article 12(1) of the EC Habitats Directive has been duly considered in that the welfare of any protected species found to be present on the site will continue, and will be safeguarded, notwithstanding the proposed development. The proposal therefore accords with the NPPF and Policies C2 and C5 of the adopted Cherwell Local Plan and Policy ESD10 of the Submission Local Plan.

Flooding and Drainage

- 5.74 The Environment Agency has not objected to the proposal as the application site is not within a high risk area, being located within Flood Zone 1. A flood Risk Assessment has been submitted as part of the application which demonstrates that the site is not at risk of flooding. The surface water drainage strategy is to direct all the surface water runoff from the residential development to new surface water networks that flow south east to correspond with the natural ground falls and then into a geocellular infiltration tank which will be situated on the network to retain the excess rainwater due to the outflow restriction set by the infiltration rates. The use of SUDS accords with the NPPF and will help mitigate any flood risk impact to the surrounding areas.

Transport Assessment

- 5.75 The application has been submitted with a Transport Assessment and Travel plan. A single vehicular access is proposed from Sibford Road into the site. Sibford road is a single carriageway of approximately 6m wide and is subject to a 30mph speed limit, although this changes to 60mph as one leaves the village just north of the Bourne Lane junction. There is no footpath outside the site on the eastern side of Sibford Road, although an existing footpath from within the village terminates outside the school. The proposed access will be constructed to adoptable standards and will include footways to link into the existing pedestrian infrastructure along Sibford Road. The proposed Access indicates a 5.5m carriageway, and vision splays of 2.4m x 43m on exit from the site and a junction radii of 8m. Means of access is sought to be considered at this stage.
- 5.76 The submitted Transport Assessment and Travel Plan have been assessed by the Highway Authority. The Transport Assessment sets out that for the development proposed the predicted level of peak hour traffic movements generated from the site are 40 and 46 vehicles respectively during the am and pm hours.
- 5.77 Transport and accessibility is one of the aspects which must be considered in respect of whether development can be considered to be sustainable. Whilst it is acknowledged that the site, being on the edge of a village is less sustainable than in the urban areas of Banbury and Bicester, Hook Norton has been assessed as being one of the Districts more sustainable villages because of the range of services available. The site itself is located adjacent to the school and is only a short distance on foot to the village centre and within easy walking distance of bus stops. Having regard to this emerging policy anticipates that villages will take some of the housing

growth and that Hook Norton is sufficiently sustainable to accommodate some new development. No objections to the development have been received from the local highway authority and the proposal is unlikely to have any significant adverse impact on the local highway network and highway safety and is therefore considered acceptable in this respect.

- 5.78 Residents have raised concerns in respect of highway safety in such close proximity to the school and added congestion and the lack of public transport available through the village suitable for commuters. The highway authority recognise in their consultation response that walking and cycling is only really appropriate for trips within the village and that whilst a bus service is available, its frequency is poor with a limited number of destinations available. This matter was also considered in the recent appeal at Bourne Lane where the inspector concluded that Hook Norton was not an unsustainable location that was unsuitable for additional housing. The highway authority are seeking developer funding as part of this development with the aim of improving the frequency and hours of operation of the Banbury to Chipping Norton bus service in order that residents would benefit from improved connectivity to Banbury and Chipping Norton where employment and other facilities can be found. This is similar to the requirement secured in respect of the Bourne Lane development.

Delivery of the Site

- 5.79 Part of the justification for the submission of this application is based on the District's housing land supply shortage. The potential for this development to contribute to the shortage of housing is the key factor weighing in favour of this proposal. It is therefore vital that this land is delivered within the 5 year period.
- 5.80 As with other residential applications submitted for consideration on this basis, it is considered that if planning consent is granted, a shorter implementation condition should be imposed which will help to ensure that the development contributes towards the 5 year housing land supply. The applicants have confirmed that they would agree to a shortened timescale and suggest 18 months with a year for the reserved matters. The applicants state that this would be sufficient time to market and sell the site to a house builder and then for the preparation of reserved matters and are confident that the site can be delivered within the five year period.

Planning Obligation

- 5.81 The appellant includes within the Planning Statement that accompanied the application, a list of matters to be incorporated within a Section 106 planning obligation in connection with the development. Regulation 122 of the Community Infrastructure Levy Regulation 2010, and also paragraph 204 of the Framework, set out the tests which must be employed in determining the justification for any contributions. All contribution must meet all of these tests;-
- Necessary to make the development acceptable in planning terms
 - Directly related to the development; and
 - Fairly and reasonably related in scale and kind to the development
- 5.82 The proposal generates a need for infrastructure and other contributions to be secured through a planning obligation, to enable the development to proceed. The draft Supplementary Planning Document (SPD) relating to the requirements was considered by the Council's Executive in May 2011 and was approved as interim guidance for development control purposes. 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. Obligations are the mechanism used to secure these measures.

5.83 Having regard to the above, the Heads of Terms relating to the additional development will include the following:-

CDC Contributions

- Affordable Housing – 35%
- Refuse bins and Recycling - £67.50 per dwelling
- Off site sports – £53,966.74 towards sports pitches at Hook Norton sports and Social club
- Play areas – a LEAP and a LAP plus commuted sums of £33,682 per LAP and £130,189 per LEAP
- Open Space – 23m² per resident and commuted maintenance sum of £30.04 m²; balancing pond commuted maintenance sum of £17.87m²; hedgerow maintenance £42.86 m² and per mature tree £302.34 maintenance sum
- Monitoring fee – £1,975

OCC Contributions

- £862 per dwelling towards the improvement of the Banbury to Chipping Norton bus service
- £4,000 towards improved bus stop facilities at The Green
- £212,298 - Primary School expansion
- £10,545 - Special Education Needs
- £2,942 - towards Hook Norton Library
- £9,415 - Waste Management
- £736 - Museum Resource Centre
- £1,599 – improvements to adult learning in Banbury
- £11,990 – Health and Wellbeing
- £3,750 – Administration and Monitoring

Others

Thames Valley Police -

5.83 The applicants have been advised of the above requirements, but to date no legal agreement is in place in respect of the proposed development to secure the above. The Contributions sought are fully justified, being directly related to the development in question, fairly and reasonably related in scale and kind to the development and necessary in order to mitigate the impacts of the development and make the development acceptable.

5.84 Financial contributions are required to secure necessary mitigation for the impact of the development, including but not restricted to affordable housing, education, public transport, open space and play space. Without such contributions to secure essential infrastructure to support the development, the application would be unacceptable, for example because whilst there are a range of services within reasonable walking distance, some of the infrastructure is at or close to capacity and alternative provision would be beyond the accepted maximum walking distance of 2km, further increasing the reliance on the private car, should the transport infrastructure improvements not materialise. This would be contrary to the social aspect of sustainability in the NPPF, which requires new development to create a high quality built environment, with accessible local services that reflect the community's needs.

Engagement

5.85 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.

6. Conclusion

6.1 Given that the adopted Cherwell Local plan housing policies are out of date and the emerging housing policies can only be given limited weight and that the Council cannot demonstrate a five year housing land supply, paragraphs 14 and 49 of the Framework are engaged. Paragraph 14 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.

6.2 The proposal seeks to provide up to 54 dwellings, 35% of which would be affordable and this is seen as a benefit. The proposal however, notwithstanding the council's five year housing land supply position, is not considered acceptable and the site not considered suitable for residential development due to its proximity and relationship with the adjacent intensive dairy farm. In accordance with paragraph 14 of the NPPF, the adverse impact of that unit on the development significantly and demonstrably outweighs the benefits that the housing would bring. Therefore, in respect of this application proposal, the development would not constitute sustainable development and, consequently, the presumption in favour does not apply.

6.3 There are benefits of the proposal and it has to be admitted that they should be attributed some weight. The provision of Housing/Affordable Housing can be seen to be of considerable weight because they benefit from the presumption in the NPPF.

6.4 However the adverse impacts and harm when taken as a whole or cumulatively, significantly and demonstrably outweigh the benefits. The applicant has failed to adequately demonstrate that the proposed development would not be adversely affected by the activities associated with the intensive Dairy Unit at Redlands farm immediately to the north, resulting in an unacceptable living environment for the occupiers of the new dwellings.

6.5 Peter Brett Associates 'predictive assessment' underestimates the odour potential for the farm site and the 'sniff test' approach is based on insufficient baseline data to permit it to be used to draw robust conclusions from. As such the development is considered to be unsustainable and the proposal would be contrary to the thrust of Policy ENV1 of the adopted Cherwell Local Plan and Government advice within the National Planning Policy Framework which seeks to ensure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

7. Recommendation

Refusal on the following grounds:

1. Notwithstanding the Council's present inability to demonstrate that it has a 5 year housing land supply as required by paragraph 47 of the NPPF, the development of this site cannot be justified on the basis of the land supply shortfall alone. The applicant has failed to adequately demonstrate that the proposed development would not be adversely affected by odour and insects associated with the Intensive Dairy Unit at Redlands Farm immediately to the north, resulting in an unacceptable living environment for the occupiers of the new dwellings. As such the development is considered to be unsustainable and the proposed would be contrary to the thrust of Policy ENV1 of the adopted Cherwell Local Plan and Government advice within the National Planning Policy Framework which seeks to ensure high quality design and a

good standard of amenity for all existing and future occupants of land and buildings.

2. In the absence of a satisfactory planning obligation, the Local Planning Authority is not convinced that the infrastructure and affordable housing directly required as a result of this scheme will be delivered. This would be contrary to Policy H5 of the adopted Cherwell Local Plan, Policy INF1 of the Submission Local Plan and government guidance within the National Planning Policy Framework.

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.