

**Site Address: Land adj to  
Vespasian Way, Chesterton**

**14/01899/F**

**Ward:** Ambrosden and Chesterton **District Councillor:** Cllr. Andrew Fulljames

**Case Officer:** Bob Duxbury

**Recommendation:** Refusal

**Applicant:** Hill Residential

**Application Description:** Erection of 10 no. Dwellings with associated means of access, car parking and landscaping

**Committee Referral:** Major

**Committee Date:** 16 April 2015

## **1. Site Description and Proposed Development**

- 1.1 The application site is situated to the south of Chesterton, off Green Lane that runs along its northern boundary. The site sits adjacent to an existing housing development, currently under construction, for 44 dwellings, and a village hall/sports pavilion. The site has an overall area of 0.66 hectares.
- 1.2 The proposal seeks consent for 10 dwellings, with an indication of 35% affordable housing. The site would be accessed via a new vehicular access that has been constructed to serve the existing development of 44 dwellings currently under construction.
- 1.3 The site is situated beyond the existing built-up limits of the village.
- 1.4 The application was deferred from the January meeting to address the fact that this land is due to be transferred to the Council under the terms of a previous legal agreement which indicated that it would be retained as informal open space.

## **2. Application Publicity**

- 2.1 The application has been advertised by way of neighbour letter, site notice and press notice. The final date for comment was the 11 December 2014.

1 letter of support has been received. The following matters were raised and summarised below:-

- Additional affordable housing
- Development delay handover of the Community Centre

## **3. Consultations**

### **3.1 Chesterton Parish Council:**

- i) There is ongoing concern over the capacity of Green Lane/Akeman Street to absorb any more vehicular traffic. Green Lane is well used as a

route to the Bicester Golf and Country Club and is part of the “rat run” using Akeman Street and the B430 through Weston on the Green to the A34. Could OCC Highways install “driver activated speed signals” and appropriate traffic calming measures?

- ii) We recognise that an additional 10 homes means that there will be 54 homes built on site – this increases the homes increase in the village by 17% which is not insignificant.
- iii) An additional 10 homes will increase pressure on the Community Centre and Play Area. If planning permission is granted we would want the amended Section 106 agreement to include the installation of an improved floor to the Community Centre. Hill Residential are aware of our concerns over this issue. Also we would want a “safety fence” installed to protect the new Community Centre from footballs since the Community Centre is in the direct “line of fire”.

### **Cherwell District Council Consultees**

- 3.2 **Housing Officer:** I have no objection to this full application to increase the density of homes within the original permission (12/00305/OUT).

There is a 35% affordable housing requirement, which equates to 4 units, although the applicant appears to have only designated 3 affordable units (plots 5, 6, 7).

There will need to be 3 rented and 1 shared ownership or other such low cost home ownership product to be agreed with the Council.

The location of the affordable housing is acceptable as well are the proposed unit types.

Should this application be awarded permission I would require that the RP taking on the affordable housing on the current permission scheme would take on these additional units as well in order to ensure management consistency across the whole development.

The affordable units will need to be built to HCA’s Design and Quality Standards and to meet the HQI requirements. 2 of the units will need to meet lifetime homes standards.

- 3.3 **Ecology Officer:** I have no objections to the above application on ecological grounds. The submitted survey gives sufficient information. There are a few ecological constraints largely the hedgerow and the likely presence of reptiles in some areas. I would suggest the following conditions therefore:

#### **K19 Ecology: Compliance with Submitted Details**

The development hereby approved shall be carried out strictly in accordance with the recommendations set out in Section 6.3 (points R4, R5, R6 and R7) of the Preliminary Ecological Assessment submitted with the application, which was prepared by Middlemarch Environmental dated November 2014.

Reason KR2

#### **K21 Construction Environmental Management Statement for Biodiversity**

Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance, a Construction Environmental Management Statement which shall include details of the measures to be taken to ensure that construction works do not adversely affect biodiversity in particular the retained hedgerows, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved CEMP.

Reason KR2

#### **K17 Biodiversity Enhancement**

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

Reason KR3

#### **K23 Use of Native Species**

All species used in the planting proposals associated with the development shall be native species of UK provenance.

Reason KR3

#### **K5 Bats: Lighting**

Prior to the commencement of the development hereby approved a lighting scheme will be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.

Reason KR1

- 3.4 **Refuse & Recycling Manager:** No mention of waste storage or collection this needs to be address before permission is granted. Section 106 contribution of £67.50 per property will also be required.

In response to this the Agent has made the following comment:

*In reply I would say that all the houses have been designed with refuse and recycling in mind, and will accommodate refuse and recycling storage provision on-curtilage within their respective gardens. The main road through the site has been constructed within the previously approved scheme to accommodate a large refuse vehicle, and the proposed new development will form part of this refuse collection route. The proposed houses will utilise traditional refuse and recycling bins in line with the 'Cherwell District Council - Planning and Waste Management Design Advice', placed kerbside on collection day for ease of collection. Residents to plots 2 and 3 will wheel their refuse and recycling bins to the refuse collection point along their private road for collection. This is shown as a minor amendment on the proposed site layout plan (also attached).*

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

- 3.5 **Highways Liaison Officer:** No objection subject to conditions

Key issues

- The application site forms part of a previously submitted scheme which was permitted under planning application number 12/00305/OUT. This included 44 dwellings, currently under construction, with the application site left as green space.
- Access to the dwellings will be via the same access, approved under 12/00305/OUT, and subject to a S278 agreement DLM/45531, which includes extension of the 30mph limit in Green Lane and relocation of traffic calming.
- Pedestrian safety and access within the site – see detailed comments.
- Access for refuse and delivery vehicles – see detailed comments.
- Public transport through the village is poor and access to core public transport is also poor.
- The site is not in a sustainable location, and the developer should pursue opportunities to improve this.

#### Legal Agreement required to secure

A financial contribution will be sought for the improvement of cycle access to bus services at the new Park and Ride at Vendee Drive.

#### Conditions

Conditions relating to the site access and access road already agreed through Section 278, should be carried over from the previous planning application(s) mentioned above, and conditions 14-21 are recommended.

#### Informatives

Prior to commencement of development, a separate consent must be obtained from OCC Road Agreements Team for the new highway vehicular access under S278 of the Highway Act. Contact: 01865 815700; [RoadAgreements@oxfordshire.gov.uk](mailto:RoadAgreements@oxfordshire.gov.uk).

Detailed Comments:

#### Transport Statement

The Transport Statement demonstrates that the traffic impact of the development will be within acceptable limits, generating 4 vehicle departures in am peak hour, and 4 arrivals in pm peak hour.

The Transport Statement does not offer any travel planning initiatives, and OCC requires that new residents are provided with a Travel Information Pack as soon as they move in or before.

#### Public Transport

Chesterton does not possess a good bus service that would be attractive for journeys to work. However, there is a frequent inter-urban bus service between Bicester and Oxford operating along the A41/A34 at frequent intervals.

The current Chesterton bus service is supported financially by the County Council, and reduced future funding levels will result in a review and possible reduction of frequency. Although currently there are a few direct buses to Oxford in the peak hours, this situation cannot be relied upon to continue.

Bus service 25 currently links Chesterton village with Bicester Town Centre six times per day. In the other direction, buses serve various other villages before extending to Kidlington or Oxford. The combination of reduced funding by the Council and the probable effect of an expanded Upper Heyford requiring direct links with Bicester and with Oxford will almost certainly result in a reduction in current peak services at Chesterton. Future direct links from Chesterton village to Oxford by bus cannot be assumed.

Bus service s5 operates at least every 15 minutes between Bicester Town Centre and Oxford along the A41 and A34. Peak services are more frequent than this, and a supplementary S5 service also operates directly to Headington. It is probable that the effect of additional residential development in and around Bicester will result in even more bus services along this route.

Making this development accessible to the core public transport network is a huge challenge, but this could be achieved by creating a link suitable for cycling from the residential units to a bus stop on the Bicester-Oxford bus route.

A Park and Ride site is planned adjacent to the Vendee Drive roundabout, where buses on the Bicester-Oxford inter-urban service will call en route in both directions. The existing right of way between the Chesterton to Alchester road and Vendee Drive could be upgraded to be suitable for cyclists.

#### Sustainability

The location of the site is not considered particularly sustainable in strategic transport terms. The proposed footway connecting the site to the village is therefore considered a minimum essential provision.

The County Council expects that the developer will take further initiatives to improve the sustainability of this site. A contribution would be required towards the upgrading of the existing right of way between the Chesterton to Alchester Road and Vendee Drive enhancing pedestrian and cycle access to the new park and ride site. This is currently a grass strip alongside an arable field and would benefit from being upgraded to an all-weather surface. Landowner agreement would be required to widen the path and allow cyclists to use it.

#### Parking and access within the development

It is noted that there is no footway along the W side of the site access road. However, driveway accesses on both sides of the road should provide sufficient dropped kerbs to allow people to cross to the footway on the E side. Pedestrian visibility splays of 2m x 2m at each side of each driveway access should be provided (see condition D5).

There is no indication of arrangements for bin storage and collection, either hard standing for bins within the curtilages of properties fronting the access road, or for plots 2 & 3. Further information is required by the Highways Authority.

The shared driveway access to plots 2 and 3 appears only approx. 3m wide and approximately 26m in length, and appears to have no footway or passing places. Further drawings to be supplied and approved by the Highways

Authority showing how the safety of pedestrians would be protected. Consideration should be given to providing a safe crossing point for pedestrians emerging from this driveway.

I also have concerns about the size of the turning head available in the shared driveway for plots 2 and 3, given that at least some of the space in front of the double garages is likely to be taken up with residents' or visitors' cars. The Highways Authority requires swept path drawings showing how delivery and refuse vehicles would turn safely without damaging kerbs or planted areas. I note that no unallocated spaces are available for visitors' cars.

There is a parking bay adjacent to the LPG tanks, assumed to be for deliveries. Further information is required by the Highways Authority to indicate how this will be kept free of other parking at all times.

#### Drainage

Surface water drainage ties into the system of an existing granted application. The calculations support the suitability of the existing system being extended for the additional 10 properties and impermeable areas.

### 3.6 **Education:** Approval subject to the conditions

#### Key issues:

£44,475 Section 106 required for necessary expansion of permanent primary school capacity in the area. Chesterton CE Primary School is the catchment school for this development.

£69,116 Section 106 required towards the construction of a new secondary school to serve the Bicester area.

£2,300 Section 106 required as a proportionate contribution to expansion of Special Educational Needs provision in the area.

#### Legal Agreement required to secure:

£44,475 Section 106 developer contributions towards the expansion of permanent primary school capacity serving this area, by a total of 3.84 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.

£69,116 Section 106 developer contributions towards the construction of a new secondary school to serve the Bicester area by a total of 2.92 pupil places (including 0.44 sixth form places). This is based on Department for Education (DfE) advice for secondary school construction weighted for Oxfordshire and including an allowance for ICT and sprinklers at £23,670 per pupil place. This is index linked to 4th Quarter 2012 using PUBSEC Tender Price Index.

£2,300 Section 106 developer contributions towards the expansion of permanent Special Educational Needs school capacity by a total of 0.08 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.

Conditions:

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.

Informatives:

None

Detailed Comments:

Primary: Chesterton CE (VA) Primary School could be affected by housing development both within the villages and in Bicester. The school has limited spare places, and is full in some year groups. Given that the draft Local Plan indicates likely future housing growth in Chesterton, expansion of the school would be an appropriate response to any increase in local population. The feasibility of such an expansion has not been assessed. Housing developers would be expected to contribute towards such expansion.

Secondary: Bicester secondary schools currently have spare capacity, but this will be filled as the higher numbers now in primary school feed through. The large scale housing development planned for the town will require new secondary school establishments, the nature of which will be determined following local consultation. All housing developments in the area would be expected to contribute towards the cost of these new establishments.

Special: Across Oxfordshire 1.11% of pupils are taught in special schools and all housing developments are expected to contribute proportionately toward expansion of this provision.

**3.7 Property:** No objection subject to conditions

**Key issues:**

The County Council considers that the impacts of the development proposal (if permitted) will place additional strain on its existing community infrastructure.

The following housing development mix has been used:

- 0 x One Bed Dwellings
- 3 x Two Bed Dwellings
- 2 x Three Bed Dwellings
- 5 x Four Bed Dwellings

It is calculated that this development would generate a net increase of:

**31.11 additional residents including:**

1.95 resident/s aged 65+  
20.41 residents aged 20+  
3.37 resident/s ages 13-19  
3.25 resident/s ages 0-4

**Legal Agreement required to secure:**

Library	£2,644.35
Central Library	£534.00
Waste Management	£1,991.04
Museum Resource Centre	£155.55
Adult Day Care	£2,145.00
<b>Total*</b>	<b>£7,469.94</b>

\*Total to be Index-linked from 1st Quarter 2012 Using PUBSEC Tender Price Index

Administration & Monitoring £1,500.00

The County Councils legal fees in drawing up and/or completing a legal agreement will need to be secured.

**Conditions:**

The County Council as Fire Authority has a duty to ensure that an adequate supply of water is available for fire-fighting purposes. There will probably be a requirement to affix fire hydrants within the development site. Exact numbers and locations cannot be given until detailed consultation plans are provided showing highway, water main layout and size. We would therefore ask you to add the requirement for provision of hydrants in accordance with the requirements of the Fire & Rescue Service as a condition to the grant of any planning permission

**Informatives:**

Fire & Rescue Service recommends that new dwellings should be constructed with sprinkler systems

**Detailed Comments:**

Library

This development is served by Bicester Library.

This provision is significantly under-size in relation to its catchment population and this development will therefore place additional pressures on the library service.

Costs for these improvements are based upon the costs of extending a library. The costs of extending a library is £2,370 per m2 at 1st Quarter 2012 price base; this equates to £65 ( $£2,370 \times 27.5 / 1,000$ ) per resident.

This calculation is based on Oxfordshire County Council adopted standard for publicly available library floor space of 23 m2 per 1,000 head of population, and a further 19.5% space is required for support areas (staff workroom, etc.), totalling 27.5 m2 per 1,000 head of population.

The development proposal would also generate the need to increase the core book stock held by 2 volumes per additional resident. The price per volume is £10.00 at 1st Quarter 2012 price base; this equates to £20 per resident.



The contribution for the provision of library infrastructure and supplementary core book stock in respect of this application would therefore be based on the following formula:

$$\mathbf{\pounds 85 \times 31.11 \text{ (the forecast number of new residents)} = \pounds 2,644.35}$$

#### Central Library

Central Library in Oxford serves the whole county and requires remodelling to support service delivery that includes provision of library resources across the county.

Remodelling of the library at 3rd Quarter 2013 base prices leaves a funding requirement still to be secured = £4.1 M 60% of this funding is collected from development in the Oxford area. The remainder 40% is spread across the four other Districts. 40% of 4.1M = £1,604,000.

Population across Oxfordshire outside of Oxford City District is forecast to grow by 93,529 to year 2026. £1,604,000 ÷ 93,529 people = £17.15 per person

$$\mathbf{\pounds 17.15 \times 31.11 \text{ (The forecast number of new residents)} \text{ or } \pounds 41.16 \text{ per dwelling} = \pounds 534}$$

#### Strategic Waste Management

Under Section 51 of the Environmental Protection Act 1990, County Councils, as waste disposal authorities, have a duty to arrange for places to be provided at which persons resident in its area may deposit their household waste and for the disposal of that waste.

To meet the additional pressures on the various Household Waste and Recycling Centre provision in Oxfordshire enhancements to these centres are either already taking place or are planned, and, to this end, contributions are now required from developers towards their redesign and redevelopment.

A new site serving 20,000 households costs in the region of £3,000,000 at 1st Quarter 2012 price base; this equates to £64 per resident.

The contribution for the provision of strategic waste management infrastructure in respect of this application would therefore be based on the following formula:

$$\mathbf{\pounds 64 \times 31.11 \text{ (the forecast number of new residents)} = \pounds 1,991.04}$$

#### County Museum Resource Centre

Oxfordshire County Council's museum service provides a central Museum Resource Centre (MRC). The MRC is the principal store for the Oxfordshire Museum, Cogges Manor Farm Museum, Abingdon Museum, Banbury Museum, the Museum of Oxford and the Vale and Downland Museum. It provides support to these museums and schools throughout the county for educational, research and leisure activities.

The MRC is operating at capacity and needs an extension to meet the demands arising from further development throughout the county. An extended

facility will provide additional storage space and allow for increased public access to the facility.

An extension to the MRC to mitigate the impact of new development up to 2026 has been costed at £460,000 at 1st Quarter 2012 price base; this equates to £5 per person.

The contribution for the extension of the Museum Resource Centre in respect of this application would therefore be based on the following formula:

**£5 x 31.11 (the forecast number of new residents) = £155.55**

#### Social & Health Care - Day Care Facilities

This development is served by Bicester Day Centre and this development will place additional pressures on this adult day care facility. To meet the additional pressures on day care provision the County Council is looking to expend and improve the adult day care facility in Bicester Day Centre

Contributions are based upon a new Day Care centre offering 40 places per day (optimum) and open 5 days per week; leading to an equivalent costing of £11,000 per place at 1st Quarter 2012 price base (this in non-revenue). Based on current and predicted usage figures we estimate that 10% of the over 65 population use day care facilities. Therefore the cost per person aged 65 years or older is £1,100.

The contribution for the provision of adult day care infrastructure in respect of this application would therefore be based on the following formula:

**£1,100 x 1.95 (the forecast number of new residents aged 65+) = £2,145.00**

#### Administration

Oxfordshire County Council requires an administrative payment of £1500 for the purposes of administration and monitoring of the proposed S106 agreement, including elements relating to Education. The admin fee may increase depending on the value of any Transport related contributions.

#### Indexation

Financial contributions have to be indexed-linked to maintain the real values of the contributions (so that they can in future years deliver the same level of infrastructure provision currently envisaged). The price bases of the various contributions are covered in the relevant sections above.

#### General

The contributions requested have been calculated where possible using details of the development mix from the application submitted or if no details are available then the County Council has used the best information available. Should the application be amended or the development mixed changed at a later date, the Council reserves the right to seek a higher contribution according to the nature of the amendment.

The contributions which are being sought are necessary to protect the existing levels of infrastructure for local residents. They are relevant to planning the incorporation of this major development within the local community, if it is

implemented. They are directly related to this proposed development and to the scale and kind of the proposal.

- 3.8 **Recreation and Health:** There is a requirement for a contribution towards public art. The artwork commissioned could be either a stand-alone sculptural piece or a functional artwork. It will need to tie into the landscaping works for the site or it could be used to enhance the play area at the rear of the new village hall, by making a blacksmithed screen or panel to add interest.

Detail

Developers to determine preference for location and type of artwork. This can then be approved by CDC Arts development team who will undertake to procure it on behalf of the developers involving Chesterton Parish Councillors in the decision.

- 3.9 **Recreation and Health Improvement Officer:** Off-site contribution towards providing additional outdoor sports facilities at the Bicester Sports Village. Off-site contribution towards creating additional capacity at the Bicester and Ploughly Sports Centre.

Detail

Outdoor sports: 10 dwellings with a occupancy of 28.44 people x £416.41 = £11,843.

Indoor sports: 28.44 people x £302.31 = £8,598

- 3.10 **Community Development Officer:** As this development is under 50 dwellings our policies do not allow us to make a community requirement.

**Other Consultees**

- 3.11 **Thames Water**

Waste Comments

Thames Water would advise that with regard to sewerage infrastructure capacity, we would not have any objection to the above planning application.

Water Comments

On the basis of information provided, Thames Water would advise that with regard to water infrastructure capacity, we would not have any objection to the above planning application.

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

- 3.12 **Environment Agency:** This application is deemed to either have a low environmental risk or relate to conditions that were not recommended by the Environment Agency. Unfortunately, due to workload prioritisation we are unable to make an individual response to this application at this time.

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

### **4.1 Development Plan Policy**

Adopted Cherwell Local Plan (Saved Policies)

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
C8	Sporadic development in the countryside
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
ENV12	Contaminated land
TR1	Transportation funding

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

National Planning Policy Framework

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

Planning Practice Guidance

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 in the Submission Local Plan (October 2014). The main relevant policies to consider are as follows:-

Policy H15	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 Banbury and Bicester
Policy EN34	Conserve and enhance the character and appearance of the landscape

Submission Local Plan 2006 – 2031

The Plan was submitted to the Secretary of State on 31 January 2014 for Examination. There are outstanding objections to some policies which have yet to be resolved.

The Examination commenced on 3 June 2014. On 4 June 2014 the Inspector temporarily suspended the examination to enable the Council to prepare modifications to the plan to accommodate additional homes across the district. The Examination reconvened on 9 December 2014.

The main policies relevant to this proposal are:-

Policy Villages 1	Chesterton is identified as 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 ESD3	Sustainable construction. All new homes are expected to meet at least Code Level 4 of the Code for Sustainable Homes
Policy ESD7	Sustainable drainage. All development will be required to use SUDS for the management of surface water run-off
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
Policy BSC 10	Seeks to ensure that sufficient quantity and quality of open space, sport and recreation provision is secured

## **5. Appraisal**

5.1 The key issues for consideration in this application are:

- Planning Policy and the Principle of Development
- Five Year Housing Land Supply
- Design
- Landscape impact
- Ecology
- Flooding and Drainage
- Transport Assessment and Access
- Delivery of the Site
- Planning Obligation
- Previous commitment to future use of this land

## **Planning Policy and Principle of Development**

- 5.2 The Development Plan for Cherwell 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.
- 5.3 The site in question is not allocated for development in any adopted or draft plan forming part of the development plan, but it does however fall within the application site boundary of the outline planning permission granted on appeal for 44 houses in February 2013 (12/00305/OUT). Chesterton 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 notwithstanding the above permission. 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 an identified and specified 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 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 or affordable housing.
- 5.4 Quite clearly the development fails to comply with this policy and in doing so also potentially conflicts with the 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.
- 5.5 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.
- 5.6 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 re-using 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

5.7 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

5.8 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.

5.9 Whilst it is acknowledged that Chesterton 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 The Green, it is important to note that the Inspector concluded that Chesterton is a sustainable location. Furthermore, in an appeal at Bourne Lane, Hook Norton an Inspector 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 and that it was sustainable.

- 5.10 In terms of the environmental dimension, the development must contribute to the protection and enhancement of the natural, built and historic environment by improving biodiversity. Whilst this is a green field site and its loss will cause harm to the character and appearance of the countryside, this would be limited to short–medium distance views within the immediate vicinity of the site. The para 14 presumption in favour needs to be balanced against any significant harm to interests that are identified

#### **Five Year Housing land Supply**

- 5.11 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 site 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.
- 5.12 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 all 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.
- 5.13 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 be take account of the fact that 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).
- 5.14 On 28 May 2014, the council published a Housing land Supply Update which showed that there was a five year housing land supply, based on the Submission Local Plan requirement of 670 homes per annum from 2006 to 2031. The examination of the Local Plan began on 3 June 2014. On that day, and the following day, June 4 2014, the Local Plan's housing requirements were discussed in the context of the Oxfordshire Housing Market Assessment



(SHMA) 2014, published on 16 April 2014 (after the submission of the Local Plan in January 2014).

- 5.15 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 are identified as the mid-point figure within that range.
- 5.16 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.
- 5.17 A further Housing Land Supply Update was published in June 2014 It showed that the District then had 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 sought to ensure that any shortfall in delivery was made up within the five year period.

On 31 March 2015 the Council published its latest AMR and that shows that we now have a 5.1 year supply of housing land.

- 5.18 However, even given the Council's previous 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 even in those circumstances 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

- 5.19 The Submission Cherwell Local Plan is not adopted and therefore carries limited weight, but does set out the Council's proposed strategic approach to development within the district to 2031, with the majority of new development being directed to the urban areas of Bicester and Banbury. The Plan does, however, recognise that some development will have to be permitted in rural villages in order to meet the needs of the rural population.

- 5.20 Policy Villages 1 of the Plan designates Chesterton 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 Villages 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 Submission Local Plan. As part of the 'Main Modifications' to the Submission Local Plan following the need to identify further housing in order to achieve the District's assessed housing need and maintain a five year housing land supply Policy Villages 2 has been revised by including Kidlington as a category A village and increasing the number of homes to 750.
- 5.21 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.
- 5.22 The proposal would give rise to conflict with a number of policies in the adopted Cherwell Local Plan, and the Submission Local Plan. Paragraph 14 of the NPPF 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. 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 relevance are identified and considered below.

#### **Design & Layout**

- 5.23 The application is a detailed scheme and so full plans and elevations of the proposed dwellings have been provided. The dwellings consist of 8 detached and a single pair of semi-detached properties. 8 of the dwellings (all but plots 2 and 3) would front onto the main access road that would serve the dwellings as well as the wider development of 44 dwellings. Plots 2 and 3 would sit further back from the road served by a private drive. All properties would sit back from the road, separated by front gardens, whilst plot 10 that also fronts onto Green Lane, would be set back from this road, in line with the adjacent plots on the adjoin larger development.

- 5.24 In terms of the design of the proposed dwellings, all would be two-storey, with a mixture of materials to include stone for those properties immediately adjacent to Green Lane (plots 9 and 10) and buff brick and red brick on the remaining plots. The roofs would be constructed from a mixture of grey and terracotta plain tiles.
- 5.25 The design of these properties seeks to sit comfortably and match those properties currently under development on the adjoining site. Indeed, both sites are owned by the same developer and so there will be an obvious correlation between the sites and ensure that they do not conflict with each other.
- 5.26 It is considered that the design details provided that the proposed development would fit with the context of the wider village. Some concern exists however about the non-frontage element of the layout

#### **Landscape Impact**

- 5.27 The application 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.
- 5.28 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.
- 5.29 The application site, like the adjoining land under development, is not within any locally or nationally designated landscapes. Indeed, the wider site was considered by the Planning Inspector in allowing the adjoining development for 44 dwellings and he commented that it would intrude into the village's landscape setting. He commented further that in most views the development would be seen in association with existing development, and be seen as a contiguous extension rather than as an isolated development. However it is plain that he bases this view on the fact that the scheme he was considering included substantial new tree/hedge planting and other landscaping which would soften the built development's appearance. The open nature of this application site, retained as informal open space, will have contributed to that opinion in our view.
- 5.30 The proposed dwellings would most likely be seen when approaching the village from the west and across open fields from the Little Chesterton Lane. Intermittent hedging and tree planting breaks up the views available. It should be noted that the new dwellings currently under construction would also be seen in a similar context and so the impact of the proposed dwellings would be of a similar scale, albeit further west from the village, but with less opportunity for a good landscaped edge. It is proposed to retain existing hedging along the western boundary of the site, which can be ensured by way

of a condition and this will continue to offer some protection of views when approaching the village, but this will be less good than the scheme allowed on appeal, and on balance is considered significant enough to justify a refusal of planning permission in the circumstances of the improved 5-year land supply position and the legal undertaking to provide this land as open space. It shares many of the deficiencies of a previous scheme for 63 houses dismissed at appeal in June 2011.

### **Ecology**

- 5.31 The application is accompanied by an Ecological Assessment that confirms that the site is not within or adjacent to any statutory or non-statutory wildlife sites and that the proposed development would not cause any significant impacts to such sites.
- 5.32 The Ecological Assessment considers the potential impact on a number of species, including bats, badgers, hedgehogs, brown hare, birds, reptiles and amphibians.
- 5.33 In respect of all these species, none were found specifically on the site but within the proximity of the surrounding area. As such, it concludes that whilst there is unlikely to be any direct impact arising from the development, precautionary measures need to be taken during construction to monitor the situation further.
- 5.34 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 overall decline in biodiversity, including establishing coherent ecological works that are more resilient to current and future pressures.
- 5.35 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: ‘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 the Conservation Regulations 2010, which states that a ‘competent authority’ in exercising their functions, must have regard to the requirement 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’.
- 5.36 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, licenses 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. there is a satisfactory alternative
3. is there adequate mitigation being provided to maintain the favourable conservation status of the population of the species

5.37 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.

5.38 The Council's Ecologist has assessed the Ecological Assessment which has been submitted with the application and considers that it is appropriate in scale and depth. The Ecologist recommends 5 conditions to ensure that appropriate measures are put in place to ensure that protected species are adequately managed. Consequently, having regard to the above, 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**

5.39 No objections have been raised by the Environment Agency to the proposed development as the application site is not within a high risk area, being located within Flood Zone 1.

#### **Transport**

5.40 The application site would use an existing, consented access, which will serve the adjoining development of 44 dwellings and so in respect of the position and size of the access, it is considered to be appropriate.

5.41 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 urban areas of Banbury and Bicester, Chesterton has been assessed as being one of the districts more sustainable villages because of the range of services available. Having regard to this, emerging policy anticipates that villages will take some of the housing growth and that Chesterton is sufficiently sustainable to accommodate some new development. The Highway Authority has questioned the sustainability of Chesterton and the efforts made by the applicant to improve accessibility to the site. In doing so, the Highway Authority have made several recommendations, including upgrading the footpath between the Chesterton to Alchester Road and Vendee Drive. It is considered that these matters can be adequately addressed through the imposition of appropriate conditions and obligations.

#### **Delivery of the Site**

5.42 Part of the justification for the submission of this application is based on the district's housing land supply shortage. The potential of this development to

contribute to the shortage of housing would be a key factor weighing in favour of this proposal if the Council had not been able to recently announce that it had a 5 year supply. If permission was to be granted it would therefore be vital that this land is delivered within the 5 year period.

### **Planning Obligations**

- 5.43 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.
- 5.44 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/services. Obligations are the mechanism used to secure these measures.
- 5.45 In respect of planning obligations, the NPPF advises at paragraph 204 that they should be sought where they meet all of the following tests:
- necessary to make development acceptable in planning terms
  - directly related to the development; and
  - fairly and reasonably related in kind and scale to the development
- 5.46 Having regard to the above, if permission were granted the Heads of Terms relating to the additional development would include the following:-

#### **CDC Contributions**

- 35% affordable housing
- Refuse and Recycling - £67.50 per property
- Outdoor sports - £11,843
- Indoor Sports - £8,598
- Public Art
- Monitoring fee - £1500

#### **OCC Contributions**

- £44,475 – Primary School Expansion in the area
- £69,116 – New Secondary School at Bicester
- £2,300 – Special Education Needs
- £2,644.35 –Library
- £534.00 – Central Library
- £1,991.04 – Waste Management
- £155.55 – Museum Resource Centre
- £2,145 – Adult Day Care
- £1,500 – Administration
- Improvement of cycle access to bus services at the new Park and Ride at Vendee Drive

Thames Valley Police - £6,285.65

### **Previous Planning agreement**

- 5.47 A completed and executed Section 106 agreement was submitted at the Hearing into the previous appeal by the current applicant of this application. In that agreement an area of informal open space was to be provided on the western side of the appeal site, and that land shall be laid out in accordance with an agreed timetable and upon completion transferred to the Council or its nominee. The applicant makes no reference to this requirement in the application. Failure to provide this agreed facility will have the double impact of not providing sufficient open space for the previous scheme and results in less landscape buffer planting space being available resulting in that development being more prominent and harmful than envisaged by the appeal inspector

In response to this the applicants have commented that

*I understand you are considering the implications for the loss of open space associated with the original approved scheme for 44 dwellings. This relates to the S106 payments secured for the maintenance of the open space under the consented scheme as well as the impact of the additional 10 dwellings on the landscape. I accept that on the first of these two points there would need to be a variation to the S106 associated with the 44 dwellings. Whilst the commuted sum for open space maintenance for this area (remembering there are other areas of open space and the enlarged pitches being retained) would be redundant, there would clearly be a significant new S106 package towards education, sport, cycle links etc. as well as affordable housing. Paragraph 5.48 (now 5.46) of the Committee Report sets this out in detail - in total it comes to around £160,000. My own view is that these are far more tangible benefits to the local community than the area of open space when considering the scheme in the round. I assume there would need to be a variation to the S106 associated with the consented scheme to address this point?*

### **Engagement**

- 5.48 With regard to the duty set out in paragraphs 186 and 187 of the Framework, the officers have had regular contact with the applicant's agent. It is considered that the duty to be positive and proactive has been discharged

### **Conclusion**

- 5.49 As the Council has recently been able to declare that it has more than a 5 year supply of housing land it has been possible to make a more searching assessment of the harm that this development could cause and to re-address the balancing exercise necessary with the current status of the Local Plans. It would result in housing development being more prominent on this village edge and in the view of your officers would cause harm to the character and appearance of the countryside and would have an increased impact upon the setting of the village, in comparison to the scheme approved on appeal. Furthermore this proposal would result in the failure of the applicants to be able to deliver the previously agreed informal open space. Such a change would separately require the consent of the Council to the legal agreement

## **Recommendation**

### **Refuse** on the following grounds

1. The proposed development will be conspicuous from public vantage points to the west and will be detrimental to the character and appearance of the countryside And to the setting of the village and the land is not allocated for development by either the saved policies of the adopted Cherwell Local Plan 1996, nor is the application site proposed for development as a strategic housing allocation in the Submission Local Plan December 2014. The proposal will have a greater impact on these matters than the scheme being built that was allowed at appeal ( re non 12/00305/OUT) and represents a sporadic, unplanned, urban extension, encroaching into the open countryside which fails to maintain its rural character and appearance. The application is, therefore, contrary to Policies H18, C7 and C8 of the adopted Cherwell Local Plan, Policies ESD13, and ESD16 of the Submission Cherwell Local Plan June 2014 (as amended by modifications) and national policy contained in the National Planning Policy Framework.
2. In the absence of a satisfactory planning obligation, the Local Planning Authority is not convinced that the infrastructure directly required to service or serve the proposed development will be provided. This would be contrary to the Policy R12 of the adopted Cherwell Local Plan, Policy INF1 of the Submission Cherwell Local Plan January 2014 and national policy contained within the National Planning Policy Framework.
3. Development in the manner proposed will curtail the opportunity for the developer to deliver the informal open space that it is obligated to provide in the terms of a legal agreement entered into by the applicant in respect of the adjacent site that is currently being built to the detriment of the character and appearance of that scheme and the quantum of open space that should be provided, contrary to Policy BSC10 of the submitted Cherwell Local Plan.