

**Site Address: Land adj to Cotswold  
Country Club and South of Properties on  
Bunkers Hill Kidlington**

**15/02132/OUT**

**Ward:** Kirtlington

**District Councillor:** Cllr Holland

**Case Officer:** Shona King

**Recommendation:** Refusal

**Applicant:** Mr Alan Mackenzie-Wintle, Heritage Pensions Ltd

**Application Description:** Outline – Development of eight houses and access improvements

**Committee Referral:** Member Request

**Committee Date:** 21 May 2015

**1. Site Description and Proposed Development**

- 1.1 The site is located to the rear of a row of dwellings which front onto the A4095 and currently comprises an area of hardstanding, former Club building, and a disused bowling green and associated changing rooms and maintenance shed. Access to the highway is via a narrow track onto the A4095 at the western end of the site. The site is bounded to the north and west by countryside and to the east by an established nursery/garden centre.
- 1.2 Outline consent is sought for the demolition of the Club building and those associated with the bowling green and the erection of eight dwellings. Improvements to the access are also proposed.
- 1.3 The application was deferred from the meeting on 19<sup>th</sup> March 2015 for confirmation from the applicant as to the viability of the scheme if permission were to be granted subject to a legal agreement to secure the public benefits set out in the planning statement submitted with the application and the provision of children's play space, along with a contribution to its maintenance, required as a consequence of the development. Financial information has been received and this has been independently assessed. The findings of the report are set out below.

**2. Application Publicity**

- 2.1 The application has been advertised by way of neighbour letter and site notice. The final date for comment was the 5<sup>th</sup> February 2015. 12 letters have been received, 1 in support, signed with 10 signatures, and 11 objecting to the application. The following issues were raised:
  - Loss of countryside
  - Traffic/highway safety
  - Lack of lighting
  - Lack of local amenities
  - Reliance on private car
  - Limited bus service
  - Use of land not in applicant's ownership
  - Noise from Kidlington Airport
  - Upkeep and running of community facility
  - Viability of community facility
  - Contrary to policy
  - Lack of consultation with residents by applicant
  - Existing residents to improve water supply and repair water tower
  - Existing sewage system to undergo maintenance.
  - Sympathetic development

- Benefits to community
- Restore sense of community
- Not unsustainable
- Improve appearance of area

2.2 A letter has also been received from the agent, dated 23 March 2015, setting out the costs of some of the benefits offered by the applicant and how the benefits can be secured. The letter is available for Members to view on the Council's website. As stated above additional financial information has also been received from the applicant's agent.

### 3. Consultations

3.1 Shipton-on-Cherwell and Thrupp Parish Council: We consider that the proposed development would significantly improve the infrastructure and amenity of the Bunkers Hill settlement as a whole and therefore fully support the application.

#### Cherwell District Council Consultees

3.2 Planning Policy Officer (original comments): The site lies outside the built-up limits of the village, would extend development into the countryside and as such is contrary to adopted Development Plan policies.

The Council cannot demonstrate a five year housing land supply however this is a small site of less than 10 dwellings therefore it is not considered to be of housing land supply significance. It is noted that the application does not provide any affordable housing but instead a contribution of £40,000 will be made towards off-site affordable housing provision. This is contrary to emerging policy and the need for affordable housing is of course high. It is not yet known whether the Local Plan Inspector will make observations on the policy in the context of the recent change to the NPPG. In advance of the Local Plan Part 2 or a Neighbourhood Plan it will be necessary to consider the district's current housing supply situation, to be mindful of emerging policy and the likely impact of proposed developments on a case by case basis.

As mentioned earlier Bunkers Hill is within Shipton on Cherwell and Thrupp parish and is a Category C Village in the emerging Local Plan, which is one of the least sustainable settlements in the district. The sustainability of the area was considered as part of the planning application 12/01271/F on a neighbouring site for 3 dwellings which was dismissed at appeal in 2013. The Inspector had recognised that "Bunkers Hill is essentially a single row of about 20 houses isolated from any settlement and with few facilities of its own." The Inspector continued to state "I do not accept the appellant's suggestion that this is a sustainable location for residential development. The lack of local services is such that, while there is a bus service nearby, residents would be mainly reliant on cars for trips to day-to-day services and facilities, including employment, education, medical services and shopping."

#### Policy Recommendation

The planning policies contained in existing Local Plans, the Submission Local Plan as Proposed to be Modified, the NPPG and the NPPF will need to be taken into account. From a Policy perspective the proposal would lead to an incursion into the open countryside and the loss of natural resources. There would be benefits from the provision of new houses. However, landscape, the loss of recreation use and building and other impacts will need to be considered. Development in this unsustainable location would be contrary to Local Plan policies and is therefore not supported.

3.3 Planning Policy Officer (revised comments): The five year land supply was comprehensively reviewed for the 2014 Annual Monitoring Report which was

published on 31 March 2015. The AMR is available on-line at <http://www.cherwell.gov.uk/index.cfm?articleid=9043>.

The AMR concludes that the district has a 5.1 year supply of deliverable sites for the five year period 2015-2020 (commencing on 1 April 2015). This is based on the housing requirement of the Submission Local Plan (as Proposed to be Modified, February 2015) which is 22,840 homes for the period 2011-2031 and is in accordance with the objectively assessed need for the same period contained in the 2014 SHMA (1,140 homes per annum or a total of 22,800). The five year land supply also includes a 5% buffer for the reasons explained at paragraph 6.28 of the AMR.

The presumption in favour of sustainable development, as advised by the NPPF, will therefore need to be applied in this context.

The PPG was updated on 26 March 2015 in relation to affordable housing. Paragraph 23b-012-20150326 states that no affordable housing or tariff style planning obligations should be sought on developments of 10 dwellings or less and which have a maximum combined gross floorspace of no more than 1,000 sqm. This is as set out in the Written ministerial Statement on small-scale developers.

A ministerial statement in March 2015 made clear that the change to Planning Practice Guidance in respect of affordable housing (see PPG above) is a change to national policy. The emerging Local Plan contains a draft policy (BSC3) which applies a lower threshold for affordable housing outside main urban centres (3 units or more). The Local Plan Inspector's Report is expected soon and will consider whether or not the proposed policy is 'sound' in the context of national policy and local evidence. However, at the current time the national policy will carry more weight.

- 3.4 Environmental Protection Officer: I recommend applying the full contaminated land conditions. As a proposed residential property, it is a sensitive land use and the future users would be vulnerable to contamination.

As such, I recommend applying conditions J12-16 to assess whether this development will be affected land contamination

- 3.5 Landscape Officer: The application site is presently well-screened by intervening structural vegetation between the PRow to the north and the surrounding highways, A4260, A4095 and B4027. The localised visual impacts will affect the residences of Bunkers Hill immediately South east of the site; however the proposed indicative landscaping on the Proposed Layout Plan goes some way in mitigating this visual impact.

There are existing trees near to the site access which will be within an influencing distance of the proposed access road and therefore a tree survey should be implemented by a qualified arboriculturalist in accordance with BS5837, if consent is given. Standard CDC landscape and tree retention conditions are also necessary

The site is subject to on-site play provision because the threshold of 6 units has been achieved. An equipped LAP is required, perhaps on the community facility site. The commuted sum will be £31,995.52.

The community centre is going to be too close to the boundary of plot 8 to allow residents the necessary privacy, etc., and therefore a landscaped buffer between them of 5 m (similar to the buffer required for a LAP. The community centre area with a LAP will have to be increased in area to accommodate both facilities.

Please note that it is evident that this application will be contributing a further extension into the countryside and is therefore contrary to CDC's relevant planning

policies, highlighted by Planning Policy, and for this reason I do not support the application.

- 3.6 Arboriculturalist: I have no arboricultural objections to this proposal however, there exists a small percentage of trees parallel with the access road and two hedgerows to the north-west and north-east boundaries which, due to screening and biodiversity values should be retained and protected from development activities by an arboricultural method statement (AMS).

Conditions:

1. a) No retained tree shall be cut down, uprooted, damaged or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. All tree works shall be carried out in accordance with BS3998: Recommendations for Tree Works.
- b) If any retained tree is cut down, uprooted, destroyed or dies, another tree shall be planted in the same place in the next planting season following the removal of that tree, full details of which shall be firstly submitted to and approved in writing by the Local Planning Authority.

In this condition a "retained tree" is an existing tree which shall be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) shall have effect until the expiration of five years from the date of the decision notice.

2. Prior to the commencement of the development hereby approved, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS.
3. Prior to the commencement of the development hereby approved, full details of a scheme of supervision for the arboricultural protection measures, to include the requirements set out in a) to e) below, and which is appropriate for the scale and duration of the development works, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the arboricultural protection measures shall be carried out in accordance with the approved details.
  - a) Written confirmation of the contact details of the project arboriculturalist employed to undertake the supervisory role of relevant arboricultural issues.
  - b) The relevant persons/contractors to be briefed by the project arboriculturalist on all on-site tree related matters
  - c) The timing and methodology of scheduled site monitoring visits to be undertaken by the project arboriculturalist.
  - d) The procedures for notifying and communicating with the Local Planning Authority when dealing with unforeseen variations to the agreed tree works and arboricultural incidents
  - e) Details of appropriate supervision for the installation of load-bearing 'structural cell' planting pits and/or associated features such as irrigation systems, root barriers and surface requirements (eg: reduced dig systems,

arboresin, tree grills)

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

- 3.7 Ecologist: With regard to the above application. As the land is largely amenity there are no ecological issues with the plans on going however I understand that the proposals involve the demolition of the current 'clubhouse'. This building is in an area of good bat habitat close to woodland and water. The text states this has been unused for five years and therefore given its location it may have potential for bats. I do not have information on whether this building has a loft void or tiled roof however I would be keen that this building is first checked for bats by way of a scoping survey.

This information should be provided up front so we can be sure that should bats be present appropriate mitigation can be carried out within the site before a decision is made.

In addition there are records of swifts in close proximity. They are less likely to use the current building on site however in order to achieve a net gain for biodiversity on site in line with NPPF recommendations and our swift project at Cherwell any new dwellings should, where possible, include provision for them within the buildings fabric using swift bricks. The applicant should liaise with the Cherwell Swift Project Coordinator to gain advice on appropriate locations and clustering of nest provisions etc. I would suggest the following condition on this point.

Prior to the commencement of the development hereby approved, full details of a scheme for the location of 8 swift bricks shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the occupation of any building, the swift bricks shall be installed on the site in accordance with the approved details.

### **Oxfordshire County Council Consultees**

- 3.8 Highways Liaison Officer: The proposal is identical to the previously refused application no.14/01565/OUT.

The Highway Authority notes improvements are to be made to the access point and the access lane itself in terms of widening.

However this still does not overcome the sustainability of the site. As per the previous Highway Authority comments "The location is considered unsuitable for an increased residential usage. Poor accessibility to essential shops and services will result in residents being highly dependent upon the private car and therefore, from a transport perspective, the proposal is considered unsustainable"

Furthermore, it is noted the access point is to be potentially improved along with the vision splays which is considered a benefit over the existing situation. However, on drawing no.002F, Job No.1320 the improved vision splay crosses 3rd party land in which the applicant has no control over.

Given the reasons set out above the Highway Authority recommends refusal to the proposal.

3.9 Minerals and Waste: The land adjoining the application site to the north west was the subject of a planning permission granted on 13th July 1956 for the winning and working of minerals (limestone) for the manufacture of cement (application no. M542/55). However, this is no longer an extant planning permission, having lapsed without being implemented before the 1979 deadline for old mineral working permissions.

This old permission suggests the presence of a potentially workable deposit of limestone within the area of land bounded by the A4095, A4260 and B4027, although published BGS mapping does not confirm this. The land to the south east of the A4095 at Bunkers Hill was worked for limestone to serve the former Shipton on Cherwell cement works, and some limestone extraction for aggregate use is continuing to take place there in conjunction with other development.

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 Council is not aware of any current minerals industry interest in the working of limestone within the area of land to the north west of the application site and, in the absence of the Shipton on Cherwell cement works, it is uncertain whether there is now a commercially workable deposit of limestone at this location.

The application site lies immediately to the north west of existing houses on the northwest side of the A4095 at Bunkers Hill and is adjoined to the north by an existing garden centre. Part of the application site is occupied by an existing clubhouse building. These existing developments would all act as constraints on any mineral working within the application site or the land to the north west. Any working within the application site itself would almost certainly be ruled out by the need for unworked margins (buffer zones) between any working and these existing developments. The extent of the unworked margins required would be likely to extend beyond the application site, into the land to the north west. Whilst the proposed housing development would extend the unworked margins further into the land to the north west, I consider it unlikely that this would significantly increase the quantity of mineral that would be prevented from being worked.

Taking into consideration the uncertainty over the presence of a commercially workable mineral deposit within this site and the land to the north west; the constraints from existing development that already apply to any mineral working in this area; and the limited additional constraint on any such working that the proposed development would introduce; I consider there to be insufficient justification for these mineral deposits to be safeguarded from the effect of the proposed built development and, accordingly no objection should be raised to this application on minerals policy grounds.

## **Other Consultees**

3.10 Thames Water: Waste Comments

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. They can be contacted on 0800 009 3921. Reason - to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.

#### 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.

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

### 4.1 Development Plan Policy

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

H15:	Category 3 Settlements
H18:	New dwellings in the countryside
C2:	Protected species
C7:	Landscape conservation
C8:	Sporadic development
C9:	Compatibility with rural location
C13:	Area of High Landscape Value

### 4.2 Other Material Policy and Guidance

National Planning Policy Framework

Planning Practice Guidance

Submission Local Plan (October 2014)

Submission Local Plan (October 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 (August 2014) to meet the Objectively Assessed Need were subject to public consultation, from 22nd August to 3rd October 2014. Although this plan does not have Development Plan status, it can be considered as a material planning consideration. The examination reconvened and closed in December 2014 and the Inspectors report is likely to be published in May 2015.

The policies listed below are considered to be material to this case and are not replicated by saved Development Plan Policies:

Policy Villages 1:	Category C
BSC1:	District wide housing distribution
BSC3:	Affordable housing
BSC4:	Housing mix
BSC10:	Protection of open space outdoor sport and recreation uses
BSC2:	The effective and efficient use of land
ESD1:	Mitigating and adapting to climate change
ESD10:	Protection and Enhancement of Biodiversity and the Natural Environment
ESD13:	Local landscape protection and enhancement
ESD16:	Built and historic environment

## 5. Appraisal

5.1 The key issues for consideration in this application are:

- Planning History
- Principle
- Impact on the visual amenities of the area
- Highway safety
- Impact on neighbouring properties amenity
- Ecology
- Other issues

### Planning History

5.2 Planning permission was granted in 2005 under 04/02441/F for the demolition of an existing clubhouse and the erection of a new clubhouse.

5.3 Planning permission was refused in December 2014 under application 14/01565/OUT for the development of eight houses and access improvements. The application was refused as the development was considered to represent development within the countryside which could not be justified on the basis of an identified need. It was considered to constitute unsustainable, new build residential development in a rural location which is divorced from established centres of population, not well served by public transport and is reliant on the use of the private car. The development was considered to be prejudicial to the aims of both national and local policy to focus development in areas that will contribute to the general aims of reducing the need to travel by private car.

5.4 Planning permission was refused under application 12/01271/F in 2012 and dismissed at appeal in September 2013 on a neighbouring site for the demolition of existing car repair buildings and construction of 3 dwellings.

### Principle

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

5.6 With specific regard to housing proposals the NPPF, in paragraph 49, further advises 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.’ To achieve sustainable development, the NPPF sets out the economic, social and environmental roles of planning including contributing to building a strong, responsive and competitive economy; supporting strong, vibrant and healthy communities; and contributing to protecting and enhancing our natural, built and historic environment (para 7). It also provides (para 17) a set of core planning principles.

- 5.7 The NPPF does not change the statutory status of the development as the starting point for decision making. Proposed development that conflicts with the Local Plan should be refused unless other material considerations indicate otherwise. (para 12)
- 5.8 The Adopted Cherwell Local Plan and the Submission Local Plan do not contain any policies which seek to allocate the site for residential development. Sites other than those allocated, fall to be considered under Policy H12 of the adopted Local Plan which allows for development within the built-up limits of rural settlements in accordance with Policies H13, H14 and H15.
- 5.9 The site is located to the north of a single row of 24 dwellings isolated from any settlement. It is considered to represent sporadic development in the countryside and this opinion is supported by the Inspector for the appeal on the adjacent site (12/01271/F). Saved Policy H18 of the ACLP applies. This policy states that new dwellings beyond the built up limits of settlements will only be permitted where they are essential for agricultural or other existing undertakings. No case has been made for consideration as a rural exception site or other essential undertaking. As the proposal cannot be justified on the basis of an identified need in an unsustainable location, the proposal clearly does not comply with this policy criterion and therefore represents a departure from the ACLP.
- 5.10 The development is also considered to be contrary to Policy C8 of the ACLP. This policy seeks to resist sporadic development in the open countryside.
- 5.11 The Council can identify a 5 year housing land supply and as such the saved housing policies within the adopted Cherwell Local Plan are considered to be relevant to the consideration of this application. Paragraph 14 of the Framework makes it clear that there is a presumption in favour of sustainable development and that development proposals that accord with the development plan should be approved. Where relevant policies are out of date 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 or where specific policies in the Framework indicate development should be restricted.
- 5.12 The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF defines this as having 3 dimensions: economic, social and environmental. Also at the heart of the NPPF is a presumption in favour of sustainable development and in the context of this application would include promoting sustainable transport, delivering a wide choice of high quality homes, requiring good design and the conservation and enhancement of the natural environment.
- 5.13 It is considered that Policies H18 and C8 are broadly consistent with the NPPF and therefore weight can still be attached to them. The Inspector for the appeal on the neighbouring site concluded that these policies were in particular consistent with para 55 of the NPPF and attached considerable weight to them.
- 5.14 In the supporting statement accompanying the application the agent has raised as an issue that Inspectors for other appeals have taken a different view on the weight of

these policies such as:

- 70 dwellings at Hook Norton (11/01755/OUT) allowed on 23/9/2013
- 25 dwellings at Adderbury (13/00996/F) allowed on 3/0/2014.

The Inspectors for these appeals considered that Policies H18 and C8 of the adopted Cherwell Local Plan are out of date. However these appeals were at a time when the Council could not demonstrate a 5 year housing land supply.

- 5.15 Notwithstanding the discrepancy between the findings of different Inspectors, whilst the application proposal re-uses previously developed land, encouraged by paras 17 and 111 of the NPPF, given its remote location, the proposal is considered to represent unsustainable new build residential development in a rural location which is divorced from established centres of population, not well served by public transport and is reliant on the use of the private car. The development is considered to be prejudicial to the aims of both national and local policy to focus development in areas that will contribute to the general aims of reducing the need to travel by private car.
- 5.16 The applicant's agent has quoted a further planning appeal that was allowed at Enslow approximately 1 mile to the north east of the site, again at a time when the Council could not demonstrate a 5 year housing land supply. This appeal was for the demolition of existing buildings on the site, the erection of 170m<sup>2</sup> of Class B1 officer development and 10 dwellings with an associated access. Application 12/00643/OUT refers. This development, whilst in a rural location, was allowed as it was considered to be within a settlement with employment opportunities in walking distance along with the additional B1 employment floorspace to be provided. A financial contribution towards the provision of affordable housing within the nearby village of Bletchingdon and a footpath to the public house in Enslow were also proposed which were considered to be further benefits of the proposal. The Inspector found that the "considerable benefits of the proposal would not be outweighed by the harm arising from the provision of housing within a Category 3 village".
- 5.17 The applicant's agent has stated in the supporting statement that the development is not in an isolated location as it relates well to existing housing; it is not visually prominent and is sustainable as it makes good use of previously developed land; and is a high quality scheme which does not harm the rural character of the area or local landscape. It has also been stated that local finance considerations can be a material consideration in determining planning applications and in this instance the New Homes Bonus resulting from the development of eight houses would provide funds to benefit the local community.
- 5.18 Notwithstanding these above arguments deployed by the applicants. your officers consider that having balanced the need for housing land against the other material considerations set out below that the proposal comprises development within the countryside and whilst it is previously developed land the construction of 8 dwellings in this location is unsustainable and therefore contrary to the Policies within the adopted Cherwell Local Plan, the Submission Local Plan and government guidance within the NPPF
- Impact on the visual amenities of the area**
- 5.19 The proposed development will not have a significant impact on the visual amenities of the area. It is well screened in public views due to the location of the existing dwellings and the vegetation in the surrounding vicinity. There is a footpath to the north west of the site but this is some distance from the application site and views into the site will not be significant.

#### **Highway safety**

- 5.20 The Highway Authority has recommended refusal of the application on the grounds that the development is in an unsustainable location. They state that poor

accessibility to essential shops and services will result in residents being highly dependent upon the private car.

- 5.21 The proposed vision splay crosses 3<sup>rd</sup> party land which the agent states that the applicant has a legally binding option agreement to acquire the land required to remodel the access road and improve the vision splays onto the A4095. It is not currently in the applicant's control.

### **Impact on the living amenities of neighbouring dwellings**

- 5.22 The proposed development is in outline with appearance, landscaping, layout and scale reserved for consideration at a later date. However, it is considered that if permission were to be granted a layout could be produced that did not result in any unacceptable overlooking of private amenity space or habitable room windows, loss of light or overshadowing of the existing properties. The location of the proposed access into the site and the use for up to 8 dwellings will not result in a significant level of disturbance to the neighbouring properties adjoining the access.

### **Ecology**

- 5.23 The Council's Ecologist was considers that the area of land proposed for development has some potential to support reptiles, which are protected from killing and injury under the Wildlife & Countryside Act 1981 (as amended). It is considered that the existing buildings are not particularly suitable for use by bats but that the existing hedgerows should be retained and enhanced with new appropriate planting. If consent is granted it is recommended that a condition is attached to the permission restricting the clearance of the site.

### **Other Matters**

- 5.24 The applicant for the current application has advised that they will improve the access to the site (and to the rear of the dwellings in Bunkers Hill), provide an improved water supply and sewerage system, provide a "work from home/home office" and community facility, demolish an obsolete water tower as well as make a contribution towards off-site affordable housing provision and provide a children's play area with a commuted sum for maintenance if planning permission is granted. They have stated that the development value of the site will fund all of the improvements and benefits and they can be secured by way of planning conditions and/or a legal agreement.

#### Improvements to the junction with the highway and access road

- 5.25 The improvements to the access, as set out in the supporting statement and indicated on drawing no. 1320/002E, will undoubtedly improve the existing situation. The access is currently well below the required standards with poor visibility to the north east and the width of the existing track is very narrow with no passing places. However as part of any new development this would need to be upgraded to ensure that the scheme met the necessary highway safety standards resulting from increased traffic generation. The permission for the replacement of the clubhouse in 2005 (04/02551/F) did not however require works to the access and junction with the highway.

#### Improvements to the water supply

- 5.26 The existing dwellings and clubhouse at Bunkers Hill are served by a private distribution system which involves mains water being piped to a holding tank at the northern end of the site and then pumped to the individual properties. The site was originally served by a mains fed water tower which is no longer used as it became contaminated. The overflow tank for the water tower was then used to hold the mains

water prior to distribution to the individual properties. This also became contaminated and the Management Company approached Thames Water about the individual properties being directly connected to the mains. A temporary tank was fitted whilst discussions have been taking place. The quality of the water supply has been acceptable whilst the temporary tank has been used.

5.27 The continued use of the temporary tank in the long term however is not an option as it does not comply with the relevant legislation. The existing supply will need to be upgraded in the near future with or without any new development as if the Management Company does not improve supply they are at risk of prosecution by the Council for supplying sub-standard quality water. The options for the existing residents are:

- To install a suitable tank
- To connect directly to the mains

5.28 The applicant's agent has stated that the existing pipework is capable of supplying water to the existing and proposed dwellings however the difference in land levels between Shipton and Bunkers Hill means that there is an issue with pressure. The applicant is therefore suggesting installing an in-line booster station (pump room and pump). They are also offering to take the feed from the existing mains supply pipe from Shipton, opposite the access to the Bunkers Hill houses, and install a new pipe under the A4095 to the proposed pump room and then onto the individual dwellings.

5.29 In my opinion it is not necessary to allow development in an unsustainable location to pay for the connection of the existing dwellings directly to mains water but it is desirable for the residents of those properties. They have the option of a new holding tank which will overcome the existing issues.

#### Sewage disposal facilities

5.30 The existing on-site sewage treatment plant and facility is relatively old and the applicant has stated that if permission is granted a new treatment plant will be funded and installed to serve all of the Bunkers Hill properties. Whilst the existing residents may welcome the replacement of the facility it is not a matter that will be of wider public benefit and the existing residents occupy the dwellings in the knowledge that they have a private treatment facility to maintain.

5.31 The cost of the works and a 20 year maintenance contract is estimated at £52,600.

#### Demolition of the water tower

5.32 The water tower is in a state of disrepair and it will require attention in the future to either demolish or make safe. However it is not prominent in public views as it is surrounded by mature trees which screen it and it does not significantly detract from the visual amenities of the area. Its demolition is not considered to be of great benefit to the wider public.

#### "Work from home/home office" and community facility

5.33 The location of the proposed "work from home/home office" and community facility is indicated on the layout plan. No details are given of the proposed building however the supporting statement advises that the building will serve multiple purposes encouraging the residents of the existing and proposed dwellings to reduce the amount of vehicular movements and to increase the sustainability of the community. The applicant's agent has stated that it is envisaged that the Bunkers Hill Management Committee will assume responsibility for running and managing the community facility in the long term.

- 5.34 During the daytime it is proposed that the building would be used as a home office/business centre with desks and IT facilities and during the evenings and weekends the building would be used for meetings/parties/youth club/local events. It would not be licensed but would have a small kitchen. It may also be used as a small store for non perishable items for the benefit of the community to reduce car travel. The cost of providing the building and a maintenance fund for 10 years is estimated at £54,200.
- 5.35 No details have been provided with the application that there is any demand for this type of facility or indeed that it would be viable. The existing clubhouse has been vacant for a number of years as it was not considered to be viable to operate. The proposed facility would in my opinion have little public benefit as it is for use by the residents of Bunkers Hill and if it were to be used by the wider public it would be located in an unsustainable location. The Management Company have not advised whether they are able to take on the management and upkeep of the facility.
- 5.36 There is also a modern village hall at Shipton-on-Cherwell within 1 ½ miles of the application site.

#### Affordable housing contribution

- 5.37 The applicant is proposing to make a contribution towards off-site affordable housing provision if permission is granted. Whilst there is a need for more affordable housing within the district there is no current policy position for requiring affordable housing provision within the site and it is not in an accessible location to meet the affordable housing needs of nearby villages. A contribution towards off-site provision is therefore the most suitable.
- 5.38 The Planning Practice Guidance however has recently been updated and sets out that affordable housing and tariff style contributions should be sought from developments of 10 or more dwellings. In designated rural areas where a lower 5-unit or less threshold is applied, affordable housing and tariff style contributions should be sought from developments of between 6 and 10-units in the form of cash payments which are commuted until after completion of units within the development.
- 5.39 This is not such a designated rural area and as such it is considered that a contribution towards affordable housing cannot be sought as the development is for 8 units.

#### Assessment of viability

- 5.40 In order to assess whether the proposed development along with the facilities and services put forward by the applicant is viable, officers sought financial information from the applicant and this has been independently assessed. The findings are that the scheme is viable for the applicant if they sell the site on to a developer with the benefit of planning permission as the land acquisition cost along with planning fees will be recouped. This assessment has been made using various assumptions given that the application is outline with only access to be considered at this time and using the applicant's figures. These assumptions include:
- that there are no other abnormal development costs that would be incurred in building out the scheme – eg ground conditions, electricity and gas upgrades, surface water drainage. None have been identified by the Applicant to date and in the absence of any information to the contrary it is assumed that there are none. If there were additional costs then the schemes would be less valuable and less viable.
  - that the costs of obtaining the third party land necessary for upgrading the

access road is fixed and under contract.

- that no other third party land or rights are necessary to implement the scheme - rights might be necessary for installing the new water and drainage systems as an example.
- that there are no overage or clawback provisions or restrictive covenants attached to any relevant title that would mean any land value or profit needs to be shared with others.

5.41 However if planning permission is granted and the applicant sells the site on to a developer the Council may be vulnerable to a revised application being submitted with arguments that the development is not viable with the wider benefits due to the raised site value. The uplift in the land value, with the benefit of planning permission, could be as much as £700,000.

5.42 Whilst the foregoing are benefits, and therefore material to the consideration of the application, they do not in my opinion outweigh the harm arising from the provision of housing isolated from any settlement. The benefits are considered to be largely necessary for the provision of the new dwellings and so it is likely that they will be delivered in any event, particularly the improvements to the access, water supply and sewage treatment plant.

#### **Engagement**

5.43 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged as the agent has been kept informed of the issues and problems that have arisen in the determination of the application.

#### **Conclusion**

5.44 It is considered that the proposal comprises development within the countryside and whilst it is previously developed land the construction of 8 dwellings in this location is unsustainable and therefore contrary to the Policies within the adopted Cherwell Local Plan, the Submission Local Plan and government guidance within the NPPF.

## **6. Recommendation**

**Refusal**, for the following reasons:

1. The proposal represents development within the countryside where there is no proven need for agriculture or other existing undertaking and the application has not been made on the basis that it is a rural exceptions site. As the proposal cannot be justified on the basis of an identified need, it constitutes unsustainable, new build residential development in a rural location which is divorced from established centres of population, not well served by public transport and is reliant on the use of the private car. The development is considered to be prejudicial to the aims of both national and local policy to focus development in areas that will contribute to the general aims of reducing the need to travel by private car. The proposal is, therefore, contrary to Policies H18 and C8, of the adopted Cherwell Local Plan, Policy Villages 1 of the Submission Cherwell Local Plan and Government guidance contained in the National Planning Policy Framework.

#### **STATEMENT OF ENGAGEMENT**

In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 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 the agent has been kept informed of the issues and problems that have arisen in the determination of the application.