

**Site Address: Land Parcel 6927 Adjacent  
To The Hale, Chesterton**

**15/00454/OUT**

**Ward:** Ambrosden and Chesterton

**District Councillor(s):** Cllr Lynn Pratt

**Case Officer:** Matthew Parry

**Recommendation:** Refusal

**Applicant:** Ms Philippa and Georgina Pain

**Application Description:** Outline application for the erection of up to 51 dwellings with vehicular access from The Hale together with public open space and surface water retention pond and associated infrastructure

**Committee Date:** 11<sup>th</sup> June 2015

**Committee Referral:** Major development and departure from Development Plan

**1. Site Description and Proposed Development**

- 1.1 The application site consists of a 3.1 hectare field on the south-western edge of Chesterton that is in use for arable cultivation. To the east lies the existing built up area of the settlement and to the north lies arable land that has recently been subject to a planning application for 45 dwellings which the Council has resolved to approve subject to a legal agreement. To the north of that lie the village's allotments.
- 1.2 The Hale is a narrow country lane that runs alongside the site's western boundary which links Little Chesterton to the A4095. To the opposite side of The Hale lies Bicester Golf and Country Club. Green Lane runs along the site's southern boundary.
- 1.3 The site is generally has a flat topography though views of it from the The Hale to the west are prominent due to a lack of substantive vegetation along the boundary. Thicker hedgerows are more successful in screening the site from Green Lane to the south and existing houses to the east.
- 1.4 The site is not the subject of any statutory or local planning policy designations and no public rights of way run through the site.
- 1.5 The application is submitted in outline with only means of access for detailed consideration at this time. The proposal is for up to 51 dwellings to be developed across the site with a single vehicular access point from The Hale approximately half-way along the site's western boundary. A pedestrian link is also proposed between boundary vegetation onto Green Lane and a potential pedestrian route is also shown between the proposed scheme and that the proposed development on the adjoining site to the north.
- 1.6 An indicative site masterplan has been submitted to demonstrate a potential layout of a final scheme which includes the provision of an attenuation pond in the far south-west corner of the site adjacent to the junction between The Hale and Green Lane. Local play areas and greens are also shown to be proposed in the indicative masterplan.

**2. Application Publicity**

- 2.1 The application was advertised by way of neighbouring notification letters and site notices in addition to a notice in the local press. No comments have been received to this notification

### 3. Response to Consultation

#### 3.1 Oxfordshire County Council:

Local Highway Authority (LHA) – No objection subject to:

- A S106 agreement for a contribution of £700 per dwelling for the improvement of cycle access to bus services at the new Park and Ride at Vendee Drive;
- A S278 agreement to provide vehicle access to the highway, a footway linking to footways north on The Hale and east on Green Lane, traffic calming build out and speed limit change on The Hale;
- A contribution to cover the cost of implementing a TRO for the traffic calming and speed limit change.
- Conditions requiring full details of the vehicular, pedestrian and cycle access points, final details of the proposed estate roads, a drainage strategy as well as a construction traffic management plan and Travel Plan.

The LHA recognises that there are limited facilities in Chesterton and residents would need to travel to Bicester and beyond for shopping, employment and higher order services, as well as a secondary school. The County Council expect the developer to improve the sustainability of this site by contributing towards improving the walking and cycling link to the new Park and Ride site on the edge of Bicester. This would include upgrading the existing right of way between the Chesterton to Alchester Road and Vendee Drive, enhancing pedestrian and cycle access to the proposed new park and ride site. The LHA notes that local bus services to the village are sparse and, as they depend on subsidy, they are likely to become less frequent as a consequence of reductions in local authority funding. However, the site is about 1.4 km from the planned Park and Ride site adjacent to the A41/Vendee Drive junction, where frequent, more direct, commercial public transport will be available for Oxford, Bicester Town Centre and other destinations. Significant improvements are required to the cycling and walking route between the development and the Park and Ride site

The LHA considers the vehicular access design to be acceptable in principle, subject to technical audit with appropriate vision splays for actual speeds. Pedestrian links are considered to be acceptable subject to new footways being provided to connect to the adjoining site to the north and the village via Green Lane. The developer has proposed an option to relocate the 30mph speed limit to the south of the site access, and incorporate a traffic calming build out which the LHA considers would be more effective if it were to include a speed cushion at the build out, provided it was lit. Traffic calming would enhance the safety of all road users at the site access and therefore the Highways Authority would support it, subject to approval of the detail. A pedestrian access onto Green Lane to the south of the development is proposed, including a footway linking with the existing footway in Green Lane further east, providing a much needed link with facilities at the southern end of the village however it does not show the new existing traffic calming build out in Green Lane. The Highways Authority will expect this design to be modified in order to provide appropriate cycle access onto the carriageway of Green Lane and to incorporate the existing traffic calming feature.

Archaeologist - The site is located in an area of archaeological potential to the North of Akeman Street, the Roman Road from Alchester to Cirencester. An enclosure and linear feature have been identified through a geophysical survey on the adjacent field to the north west. A programme of archaeological investigation will be required

ahead of any development and will need to be secured by conditions.

Education – To mitigate the impact of the development on local education infrastructure, an S106 agreement securing the following would need to be entered into before any planning permission is granted:

- £201,295 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;
- £284,987 Section 106 required towards the construction of a new permanent secondary school in Bicester.
- £10,011 Section 106 required as a proportionate contribution to expansion of Special Educational Needs provision in the area.

Property – A condition requiring details of fire hydrants is required.

### **3.2 Cherwell District Council:**

Ecology – No objection subject to conditions including the requirement to submit a landscape/ecological management plan and construction environmental management plan.

Landscape Services - The surrounding landscape is very flat which will reduce the impact of the development in the wider landscape. The site boundaries to the site are very thin and along The Hale they are non-existent in places. Substantial additional boundary planting will be needed particularly along The Hale which looks to be lacking on the proposed indicative masterplan. The play facilities should be located in the centre of the site not on the farthest corner away from passive supervision and away from where children live. No services should run under the play areas. The sustainable drainage could be more integrated into the design rather than appearing to consist of one retention pond. SUDS can be used to create linked habitats and maximise opportunities for infiltration.

Financial contributions will be necessary to secure funding towards the long term maintenance of public open space and landscape features. A S106 agreement would need to be completed securing this in accordance with a formula set out in the draft Planning Obligations SPD.

Recreation, Health and Communities – A financial contribution of £22,968 is required to mitigate the impact upon existing nearby local community halls.

### **Other External Consultees**

3.3 Environment Agency – No objection subject to the development incorporating an acceptable sustainable drainage system.

3.4 Thames Water – Thames Water has identified an inability of the existing waste water infrastructure to accommodate the needs of the proposed development. A Grampian type condition is required to prevent development commencing until a drainage strategy detailing any on and/or off site drainage works has been approved and the drainage works referred to in the strategy have been completed.

3.5 Chesterton Parish Council – Objects to the proposals for the reasons summarised below:

- Inadequacy of the current road network, especially the present width and state of 'The Hale' to provide access to the development. It is a dangerous road for pedestrians and cyclists, given that there is no footpath.
- Time is needed to successfully integrate the current houses [under construction] and

residents before any further development takes place.

- As a result of an excessive number of new developments approved recently in the village it is becoming too big and losing its character.
- Public transport serving the village is woefully inadequate to serve the scale of new development that is taking place in Chesterton.
- If this application is approved, Chesterton would accommodate 20% of the housing planned to be delivered by Category A villages across the District to 2031. This is disproportionate and unacceptable.
- The Transport Assessment notes that the current width of The Hale is between 4.6 and 4.8m. At the latter distance it contends that this is wide enough for a car and a HGV to pass in safety. The Parish Council finds the above statement entirely unacceptable. Local distributor roads (which The Hale is in practice) should be between 6.0 and 7.2m in width. We know from experience that the road edges are heavily eroded as are the grass verges and that pedestrians are forced to take refuge on the verges when two cars are about to pass each other.

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

##### **4.1 Development Plan Policies**

###### Adopted Cherwell Local Plan 1996 (LP)

H12: Housing in Rural Areas

H13: Category 1 Settlements

T7: Minor Roads

C1: Nature Conservation

C2: Protected Species

C4: Creation of New Habitats

C7: Landscape Conservation

C8: Sporadic Development in the Open Countryside

C9: Development Beyond Planned Limits

C14: Trees and Landscaping

C17: Urban Fringe

C27: Historic Settlement Pattern

C28: Design of New Development

C30: Residential Amenity

ENV12: Contaminated Land

##### **4.2 Other Material Planning Considerations:**

###### Cherwell Submission Local Plan (SLP)

The Cherwell Submission Local Plan (February 2015) (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 SLP 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. The examination reconvened and closed in December 2014. A schedule of minor modifications and other documents arising from the hearings were submitted to the Inspector on 6th February 2015 and the Inspector's report is due to be published shortly. Although the SLP does not have Development Plan status, it is a material planning consideration with policies that have gained in weight as they have advanced through the plan preparation process. The following policies in the SLP are considered to be relevant to this application:

BSC1: District Wide Housing Distribution  
BSC2: Effective and Efficient Use of Land  
BSC3: Affordable Housing  
BSC4: Housing Mix  
BSC11: Local Standards of Provision – Outdoor Recreation  
BSC12: Indoor Sport, Recreation and Community Facilities  
ESD1: Mitigating and Adapting to Climate Change  
ESD3: Sustainable Construction  
ESD4: Decentralised Energy Systems  
ESD5: Renewable Energy  
ESD6: Sustainable Flood Risk Management  
ESD7: Sustainable Drainage Systems (SuDS)  
ESD10: Protection and Enhancement of Biodiversity and the Natural Environment  
ESD13: Local Landscape Protection and Enhancement  
ESD15: The Urban-Rural Fringe  
ESD16: Character of the built environment  
Villages 1  
Villages 2: Distributing Growth across the Rural Areas

National Planning Policy Framework (NPPF) - National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied.

Planning Practice Guidance (PPG) – This sets out regularly updated guidance from central Government to provide assistance on interpreting national planning policy and relevant legislation.

## **5. Appraisal**

5.1 Officers' consider the principal issues for consideration in this case to be:

- Principle of Residential Development;
- Impact on the Character of the Area and Surrounding Landscape;
- Design, Layout and Outdoor Space;
- Site Access and Traffic Implications;
- Impact on Existing Residential Amenity;
- Effect on Community Infrastructure;
- Ecology;
- Flood Risk and Drainage;
- Trees;
- Loss of Agricultural Land;
- Land Contamination;
- Sustainability.

### Principle of Residential Development

5.2 It is established in Section 70(2) of the Town and Country Planning Act 1990 that planning decisions must be taken against the provisions of the development plan unless material considerations indicate otherwise. Paragraph 11 of the NPPF supports this position and states that the starting point for decision making is the development plan. In this case the development plan comprises the 'saved' policies of the Cherwell Local Plan 1996. It is well established in case law that national policy (the NPPF) and Government guidance (Planning Practice Guidance etc) is a material planning consideration.

5.3 The site represents greenfield land on the edge of Chesterton, a category 1 village as defined in the LP which means that it is in a location and has sufficient services to

sustainably accommodate a limited scale of new residential development. As noted in OCC's consultation response, Chesterton is a settlement which has no commercially viable bus service or other public transport links and has poor pedestrian connectivity to Bicester. As a result, the vast majority of new adult residents are likely to travel by private car each day for employment as well as for the purposes of everyday amenities. Adopted Policy H13 of the LP is material and resists new residential development of any size outside established built-up village limits in the interests of protecting the countryside from encroachment and encouraging new development in more logistically sustainable locations. It is clear that the application proposals do not accord with this policy and would ordinarily be resisted. However, this policy as well as other housing location policies in the LP were predicated upon a significantly different evidence base at that time which did not include the increased housing need for the District that has been identified in the 2014 Oxfordshire Strategic Housing Market Assessment (SHMA). It cannot therefore be assumed that the relevant adopted policy is up-to-date when considered against national policy given the materially different circumstances which exist today. The NPPF states that, subject to certain exceptions which do not apply in this case, *"where the development plan is absent, silent or relevant policies are out-of-date [the Local Planning Authority should] grant planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits"*. Whether or not a policy is out-of-date is not simply a matter of the length of time that has passed since its adoption and, as set out in paragraph 215 of the NPPF, due weight should be given to relevant policies in existing plans according to their degree of consistency with national policy.

- 5.4 Paragraph 49 of the NPPF further states that where LPAs cannot demonstrate a five year deliverable supply of housing to meet objectively assessed need, housing location plan policies should be considered out-of-date and that proposals should simply be considered against the NPPF's presumption in favour of sustainable development. The Council however considers that it can demonstrate that currently it has in excess of a five year supply of housing land and so Local Plan policies are not out-of-date for the purposes of paragraph 49 of the NPPF.
- 5.5 It should be noted that the application site was considered as part of a wider site to the west of Chesterton in the Council's 2014 Strategic Housing Land Availability Assessment (SHLAA). This included the land to the north of the site that has a resolution to approve for 45 dwellings. Whilst the SHLAA does not in itself determine whether or not a site should be developed it does identify issues that likely to be a constraint on development taking place. The SHLAA noted that development of the whole site would be out of scale with the size of the village and the level of services and facilities it offers. Furthermore, it adds that the south of the site has a very rural feel and remote character.
- 5.6 The housing policies of the Submission Local Plan (SLP) have been prepared on the basis of the Oxfordshire SHMA and its policies seek to deliver the identified housing need for the District across the plan period (up to 2031). Although not yet part of the development plan, the emerging policies are a material consideration in determining planning applications. Whilst there are a number of unresolved objections in respect of the emerging housing policies contained in the SLP, its advanced stage of preparation and the widely accepted status of the 2014 SHMA as the basis for setting the objectively assessed housing need means it is appropriate to consider the principle of the proposed development in the context of the housing policies of the SLP. Similar to the adopted Local Plan, the SLP categorises Chesterton as one of 23 rural service centres across the District that are required to make a contribution towards meeting the objectively assessed housing need as detailed in Policy BSC1 of the SLP. Despite this, emerging Policy Villages 1 of the SLP (which is proposed to supersede adopted Policy H13) has very similar requirements to the adopted policy which in turn provides further weight to support the continued relevance of this policy to the determination of this application.

- 5.7 Emerging Policy Villages 2 of the SLP however concludes that notwithstanding windfall housing delivered under Policy Villages 1, 750 additional dwellings are required to be delivered across the 23 Category 1 villages across the plan period. However, whilst these 750 homes are required to be delivered between 2014 and 2031, over two-thirds of this housing number has already been approved in residential developments across Category 1 villages in the District of which many are now beginning to be delivered. As a result the SLP considers that there is only a relatively limited need for additional dwellings to be provided in the District's villages over and above small windfall sites.
- 5.8 As the Parish Council notes in its representation, the approval of a further 51 dwellings at Chesterton would result in a cumulative total of 140 new homes in the village having been approved since 31<sup>st</sup> March 2014 which equates to approximately 19% of the total number of additional homes required across Category A villages by 2031 to sustainably deliver the objectively assessed housing need for the District. Whilst there is no maximum limit on the number of dwellings that could be delivered at any one village, this is a clear indication that Chesterton is already planned to accommodate a significant amount of new housing development in a relatively short period of time. Officers consider that approval of this development would result in a disproportionate concentration of new housing development in Chesterton that would prejudice a more even and sustainable distribution of new housing development across the District's Category A settlements.
- 5.9 Officers are therefore of the view that the proposals would result in a further significant increase in new housing provision in a village that is not of a size sufficient to successfully integrate it or in a location that is suitably connected to key amenities, services and employment sites via sustainable travel alternatives to accommodate it. Consequently the proposals are considered to represent an inappropriate scale of new residential development in an unsustainable location contrary to the requirements of adopted Policies H12 and H13 of the Cherwell Local Plan, emerging Policies BSC1, Villages 1 and 2 of the Submission Cherwell Local Plan and national policy in the NPPF.

Impact on the Character of the Area and Surrounding Landscape

- 5.10 Adopted Policy C7 of the adopted Local Plan resists new development where it would cause demonstrable harm to the topography and character of the landscape. Whilst this policy is now dated, it does reflect a key principle of the NPPF set out in paragraph 17 which is to take account of the character of different areas and recognise the intrinsic character and beauty of the countryside and support thriving rural communities within it. Policy C28 of the Local Plan is also broadly consistent with national policy in the NPPF by requiring high standards of design in new development that is sympathetic to its context. Emerging Policy ESD13 of the SLP requires development to respect and enhance local landscape character and resists development where it would, inter alia, cause undue visual harm to the open countryside, be inconsistent with local character and/or harm the setting of settlements.
- 5.11 Whilst relatively flat, the application site is open and prominent which provides The Hale with a distinctly rural feel with informal green verges enclosing the narrow lane. Whilst The Hale is subject to regular commuter traffic and therefore greater traffic flows than might be expected for a country lane, it has a particularly remote feel that contributes towards it having a pleasant countryside character that provides a notable natural backdrop to Chesterton including an attractive open agricultural setting on entry to Chesterton from the south. There is very sparse natural boundary vegetation along the site's western boundary with The Hale and this contributes to the remote countryside feel that the lane possesses. Green Lane has a similar narrow country lane character with its combination of open fields and boundary vegetation which reinforces the creation of a remote landscape setting to the entry to Chesterton which

is of significance to its character as a traditional rural village. Whilst the topography of the site and surrounding land is such that the site does not perhaps make a significant contribution within long distance views of the countryside, it forms an important rural frame to Chesterton from the south and west. Whilst the land adjoining to the north has a resolution to approve 45 dwellings, this is a more natural enclosed area of land that integrates more successfully with the existing settlement pattern and provides markedly less contribution to the sense of rural character experienced further south on The Hale. In combination with this development to the north, a suburban housing estate would project along the length of The Hale giving rise to a significant urbanising effect on the character of the informal rural lane that would fundamentally detract from the countryside setting such that the proposals would not be compatible with local landscape character and would significantly harm the setting and character of Chesterton.

- 5.12 To compound this harm to local landscape character, the proposals would necessitate the introduction of sections of formal footways along The Hale and Green Lane to provide safe pedestrian links to ensure a degree of integration with the existing settlement. Formal traffic calming measures and increased road signage would also be required on The Hale itself to enable sufficiently safe vehicular access into the site. The local highway authority confirms that these measures are necessary to enable adequate safe connectivity to the existing settlement and road network. Together these works would further increase the urbanising effect of the proposed development on the character of the existing rural lanes by introducing a formality to the road network that would not be respectful of the remote countryside setting that is important to Chesterton's village character and the wider appreciation of the intrinsic character of the countryside.
- 5.13 Whilst soft landscaping could be proposed along the western boundary with The Hale this would not be able to be of sufficient scale to prevent the overall effect of formalisation and urbanisation on the remote southern part of the lane. In any event, open views of this lower field add to the appreciation of the countryside setting of Chesterton itself and thick native hedge planting would not enhance this character. Consequently officers have concluded that, for the above reasons, the proposals do not represent environmental sustainable development given that they are inconsistent with the intrinsic character of the surrounding countryside and rural setting of Chesterton contrary to the requirements of Policies C7 and C28 of the Local Plan, emerging Policies ESD13, ESD14 and ESD16 of the SLP as well as the key principles embodied in national policy as set out in the NPPF.

#### Design, Layout and Outdoor Space

- 5.14 Policy C28 of the Local Plan requires new development to be sympathetic to its context in terms of layout, design and external appearance. Emerging Policy ESD16 of the SLP has similar requirements by requiring high quality design in new development that contributes positively to an area's character and identity by reinforcing local distinctiveness and respecting landscape features. These policies are consistent with the NPPF which emphasises the great weight that should be attached to the importance of good design.
- 5.15 The application is in outline only with details of layout, scale, appearance and landscaping reserved for later consideration. Nevertheless, an indicative site layout has been submitted. A surface water attenuation pond is proposed in the south-west corner of the site at the lowest level and a local play area too as required by emerging Policies BSC11 and ESD7. Furthermore, at a density of less than 30 dwellings per hectare there should be an acceptable final layout available that ensures reasonable living conditions for occupiers of the proposed new dwellings. Notwithstanding officers concerns about the principle of the development and its impact on local character, officers do have concerns about the indicative layout shown including the position of the proposed play areas, the proximity of the built development to The Hale, the



inadequacy of proposed boundary landscaping and the rather generic estate road layout. Nevertheless, officers are satisfied that these matters could all be reasonably addressed at reserved matters if this application were to be approved.

#### Site Access and Traffic Implications

- 5.16 Paragraph 32 of the NPPF states that planning decisions “should take account of whether: *the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure; safe and suitable access to the site can be achieved for all people; and improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development*”. The NPPF also states that “*developments should be located and designed where practical to accommodate the efficient delivery of goods and supplies; give priority to pedestrian and cycle movements, and have access to high quality public transport facilities; create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones; incorporate facilities for charging plug-in and other ultra-low emission vehicles; and consider the needs of people with disabilities by all modes of transport*”.
- 5.17 The LHA notes that there are limited facilities in Chesterton and residents would need to travel to Bicester and beyond for shopping, employment and higher order services, as well as secondary school. The proposals include some walking links with the village, which are welcomed, but suitable walking routes do not exist to Bicester. Local bus services to the village are sparse, and as they depend on subsidy, they are likely to become less frequent as a consequence of reductions in local authority funding. However, the site is about 1.4 km from the planned Park and Ride site adjacent to the A41/Vendee Drive junction, where frequent, more direct, commercial public transport will be available for Oxford, Bicester Town Centre and other destinations. Suitable cycling and walking routes between the development and the Park and Ride site do not however exist and the LHA considers that financial contributions would be required to fund improvements to the cycle network in this respect.
- 5.18 The proposed vehicle access from The Hale is considered to be acceptable in principle as a sufficiently safe access by the LHA with vision splays appropriate for actual traffic speeds and officers have no reason to disagree with this assessment. Whilst The Hale is a narrow national speed limit road the proposals are not considered likely to result in a significant increase in traffic using the lane that could prejudice highway safety. In the interests of integrated urban design, community cohesion and promotion of walking, the proposals include a footway to be constructed on The Hale, linking to the access for the adjacent proposed development (with a resolution to approve) to the north thereby providing a continuous footway link to the northern end of the village.
- 5.19 A pedestrian access onto Green Lane to the south of the development is also proposed through the existing hedge line, including a new footway linking with the existing footway in Green Lane further east. The current proposals however do not show the new existing traffic calming build out in Green Lane. The Highways Authority expect this design to be modified in order to provide appropriate cycle access onto the carriageway of Green Lane and to incorporate the existing traffic calming feature. If approved a condition would need to be imposed to address this. There have been local concerns about pedestrians having to walk in the carriageway on The Hale and the proposed development would provide some benefit by providing a safer walking route linking new footways on The Hale and Green Lane through the development.
- 5.20 There have also been local concerns about speeds on The Hale and the developer has proposed to relocate the 30mph speed limit to the south of the site access, and incorporate a traffic calming build out. The LHA considers that this would be more effective if it were to include a speed cushion at the build out, provided it was lit. Traffic calming would enhance the safety of all road users at the site access and therefore the

Highways Authority would support it, subject to approval of the detail. If the application were to be approved, further details of its specification would be required prior to commencement of development.

- 5.21 Consequently, notwithstanding officers' concerns about their associated effects on local landscape character, the proposed access arrangements are considered to be acceptable to serve the development subject to securing financial contributions for off-site works and the submission of further detailed specifications which would need to be secured by planning condition and/or through a legal agreement as appropriate.

#### Impact on Existing Residential Amenity

- 5.22 Policy C30 of the Local Plan requires new development to safeguard acceptable standards of amenity for existing dwellings which is consistent with the key principles set out in the NPPF. There is a generous separation distance (over 30m) between the area proposed to be developed and existing and planned neighbouring dwellings. In addition, there is significant existing boundary vegetation outside the site to prevent unacceptable overlooking. Therefore an acceptable final detailed scheme is reasonably available that would not cause material harm to neighbouring residential living conditions.

#### Effect on Community Infrastructure

- 5.23 Emerging Policy INF1 requires development proposals to demonstrate the infrastructure requirements can be met to mitigate the impact of development on local infrastructure. Contributions can be secured via a S106 legal agreement provided they meet statutory tests which means that they should be: *a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development.*
- 5.24 Whilst the Council can no longer seek tariff style contributions towards generic off-site infrastructure, the proposals would directly impact upon specific off-site local infrastructure to which it is still reasonable and feasible to mitigate through financial contributions. It is also necessary to secure 35% of the new dwellings as affordable tenure as well as the long term maintenance of public space on the site as well as meet costs of providing on-site infrastructure specifically for new residents. Although the applicant has indicated a willingness to enter into a S106 agreement to secure planning obligations it has not yet been determined satisfactorily that such a planning obligation would acceptably mitigate the anticipated infrastructure effects of the development. Therefore, in the absence of such a signed S106 agreement, officers recommend Members resolve to refuse the application due to its likely adverse impact on community infrastructure. However, notwithstanding officers' recommendation, if Members were inclined to approve the application officers would need to negotiate an acceptable S106 agreement prior to issuing a decision.

#### Ecology

- 5.25 Emerging Policy ESD10 reflects the NPPF by seeking a net gain in biodiversity by protecting, managing and enhancing existing resources and by creating new resources. There is a large population of Great Crested Newts utilising the ponds within the adjacent Golf club and therefore there are likely to be some using the boundary features of this site as terrestrial habitat. As an offence is likely the work will require a protected species licence from Natural England. However, the proposed mitigation within the submitted 'Extended Phase 1 Habitat Survey and Great Crested Newt Mitigation Strategy' is considered to be sufficient such that they are likely to gain a licence. Officers are therefore satisfied that, subject to a condition securing the mitigation measures, the proposals would not have an adverse impact on the conservation status of the Great Crested Newts.
- 5.26 There are few other ecological constraints on the site if the boundary vegetation is retained which should be managed to benefit wildlife (particularly birds). A landscape

and ecological management plan would need to be secured by condition if the application was to be approved. Whilst there are no recorded badgers this aspect will need an update check prior to work commencing which can also be secured by condition. The proposed pond and linear swale as well as additional planting will have some benefits for biodiversity though they should be seeking an overall net gain for biodiversity so these would need detailing at reserved matters stage. A full submitted lighting strategy would also be needed to ensure that the impact on foraging bats is minimised.

- 5.27 Overall however officers are satisfied that, subject to conditions, the proposals would not have an adverse impact on local wildlife or protected species and have the potential to provide a net biodiversity gain in accordance with emerging local policy and the NPPF.

#### Flood Risk and Drainage

- 5.28 The NPPF resists development where it would result in an increase in the risk of flooding and seeks opportunities to reduce flood risk. All development should be safe for its use for its lifetime taking account of projected climate change. As the site is wholly within a flood zone 1 as defined by the Environment Agency (EA) and it has no known critical drainage problems, there is no objection on flood risk grounds to the principle of development. It is now national policy for all major developments to incorporate sustainable drainage systems (SuDS) which this outline scheme proposes to do. Officers are satisfied that a final detailed scheme would be able to satisfactorily incorporate an acceptable SuDS scheme to mitigate the impact of surface water runoff to at least pre-development levels. Consequently, subject to appropriate conditions, the proposals are considered to be acceptable in this respect.

#### Trees

- 5.29 Policy C14 of the Local Plan together with its supporting text recognises the important contribution that trees and hedgerows make to the attractiveness of the rural landscape and public amenity. Emerging Policy ESD13 resists undue harm to natural landscape features of importance and where appropriate seeks the planting of new woodlands, trees and hedgerows.
- 5.30 As the application is in outline, the impact of a final detailed scheme on existing trees is not known. However, the indicative masterplan demonstrates with sufficient certainty that new development could be delivered with an appropriate sized buffer to the main southern and eastern boundary vegetation to prevent undue harm to trees of wider landscape and public amenity importance. There are a handful of trees in addition to sparse hedgerows along the western boundary but none of these are individually of particular importance. In any event, as part of delivering an acceptable final scheme, this landscaping would need to be augmented by significant native planting in the interests of minimising harm to local landscape character. The proposed vehicular access on The Hale would not involve the loss of any significant landscape feature and could, subject to preserving adequate vision splays, be bounded by appropriate new planting. Whilst the pedestrian link onto Green Lane would involve the loss of part of the established southern boundary hedgerow, only a limited amount would be lost and this would not in itself be detrimental to landscape character. In any event this impact would probably be outweighed by an appropriate new scheme of planting across the site which could be secured at reserved matters stage.
- 5.31 Consequently officers are satisfied that, subject to conditions, an appropriate final detailed scheme could be delivered that would not have a significant adverse effect on soft landscaping features of importance in accordance with the requirements of adopted and emerging local planning policy.

#### Loss of Agricultural Land

- 5.32 Paragraph 112 of the NPPF states that *“local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality”*. The PPG provides further guidance on this matter and states that the Agricultural Land Classification (ALC) system classifies land into five grades. The best and most versatile land is defined as Grades 1, 2 and 3a and is the land which is most flexible, productive and efficient to best deliver food and non-food crops for future generations.
- 5.33 An examination of Natural England’s ALC maps indicates that the agricultural land proposed to be developed is of moderate quality and not sufficient to classify it as ‘best and most versatile land’. As a result, in this respect no objection is raised in principle to the loss of this agricultural land.

#### Land Contamination

- 5.34 An initial desk based assessment has been submitted which concludes that there is moderate potential for contamination of the site stemming from the presence of a former quarry at the southern section of the site which has been filled with unknown deposits. An intrusive geo-environmental ground investigation would now be required in order to try to confirm the findings of the initial assessment and to assist in determining the foundations of the development. The submitted assessment also concludes that basic radon protective measures are necessary in the construction of any new dwellings on the site. These works could be secured by planning condition if the application was to be approved.

#### Sustainability

- 5.35 Emerging Policies ESD3 and ESD5 of the SLP require all new residential development to incorporate sustainable design and construction technology to achieve zero carbon status. Significant on-site renewable energy provision is also required for developments of over 50 dwellings. These emerging policies are consistent with the NPPF which states that local planning authorities should *“have a positive strategy to promote energy from renewable and low carbon sources and design their policies to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts”*.
- 5.36 No details are provided at this stage of the sustainability measures included in the design of the proposed development as this will depend upon the form and layout of the final detailed scheme. However, notwithstanding officers’ objections to the proposals more generally, officers are satisfied that these details could be provided by condition as there is little doubt that the site could provide a development of new homes that could feature such low-carbon technology in an appropriate manner. In the event that Members were minded to approve the application, a condition securing this would need to be imposed.

#### Planning Balance

- 5.37 Paragraph 14 of the NPPF sets out a presumption in favour of sustainable development which should be seen as a golden thread running through decision making. The NPPF sets out the three dimensions to sustainable development: economic, social and environmental. These dimensions should not be considered in isolation with a planning balance exercise undertaken taking local circumstances into account. If taken as a whole the adverse impacts of a proposal are outweighed by the benefits, the proposal could still amount to sustainable development.
- 5.38 The proposed development would undoubtedly deliver some social benefits by providing new housing including an element of affordable housing. It also has the potential to create an improved linkage between the approved development to the

north and the existing settlement and may reduce traffic speeds along The Hale as a result of proposed traffic calming measures. Economic benefits would also arise directly from the construction phase of development and indirectly from the contribution of future residents to the local economy. There would also be some limited environmental benefits from the potential to enhance ecological habitat.

- 5.39 However, in the context of the Council being able to demonstrate an up-to-date five year housing land supply there is not such a significant need for this site to be developed. Indeed, Chesterton has already featured significant new housing development in comparison to its size over the past 1-2 years such that there is not an overriding need for new housing in this location. As a result the weight to be afforded to the social benefits of delivering new housing is reduced.
- 5.40 Irrespective of this, it is quite clear that the proposals would result in significant and demonstrable adverse environmental impacts. In summary, the proposals would result in further major development of a greenfield site on the edge of a village that does not possess sufficient services and facilities or sustainable transport alternatives to accommodate further housing in addition to that recently approved. As a result new residents would be heavily dependent on use of the private car for accessing employment and everyday services leading to an unsustainable increase in undesirable road travel. Moreover, the site contributes positively to the intrinsic beauty of the countryside and the remote rural character of the area as experienced in the pleasant narrow lanes of The Hale and Green Lane such that it makes an important contribution to the setting of Chesterton and its character as a village. It is also likely that the proposals would give rise to adverse social effects as a result of the cumulative significant increase in Chesterton's population and its ability to be able to cohesively integrate the new residents into the local community.
- 5.41 Consequently, for the above reasons officers are satisfied that the proposals represent development on an unsuitable site in an unsustainable location that would give rise to significant environmental harm that would not be outweighed by the benefits of the proposals. For this reason the proposals are found to be contrary to the requirements of both adopted and emerging local plan policies as well as national policy set out in the NPPF.

## **6. Recommendation**

**Refusal**, for the following reason:

1. As a result of its location on the edge of a village in open countryside in combination with its scale and housing developments already planned in Chesterton, the proposed development would result in an unnecessary and undesirable new housing development in an unsustainable location with residents overly reliant on the private car that would prejudice a more balanced distribution of housing growth across villages in the District as planned for in the Cherwell Submission Local Plan. Consequently the proposal is considered to be unacceptable in principle and contrary to the requirements of Policies H12, H13 and C7 of the adopted Cherwell Local Plan, emerging Policies ESD13, ESD16, Villages 1 and Villages 2 of the Cherwell Submission Local Plan in addition to the National Planning Policy Framework.

2. In combination with planned development to the north and having regard to the open nature of the site and its setting alongside narrow country lanes in a vernacular rural landscape, the proposals would result in the clear suburbanisation of a country lane that would fundamentally and unacceptably diminish appreciation of the characteristic rural setting of Chesterton and the intrinsic natural beauty of the countryside. Consequently the proposals fail to amount to environmentally sustainable development contrary to the requirements of Policies C7 and C8 of the adopted Cherwell Local Plan,

Policies ESD13 as well as the core planning principles set out in paragraph 17 of the National Planning Policy Framework.

3. By reason of a lack of a satisfactory completed S106 legal agreement to ensure that the development adequately mitigates its impact on community infrastructure and secures the provision of affordable housing, the local planning authority cannot be satisfied that the impacts of the development in this respect can be made acceptable. Consequently the proposals conflict with the requirements of Policy H5 of the adopted Cherwell Local Plan, Policies BSC3 and INF1 of the Cherwell Submission Local Plan as well as paragraphs 17, 203 and 204 of 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 decision has been made in a timely manner.

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