

**Land Adjacent And North of St.
Swithun's Church, Merton,
Oxfordshire**

15/01148/OUT

Ward: Otmoor

District Councillor: Cllr Hallchurch

Case Officer: Stuart Howden

Recommendation: Refusal

Applicant: Wellend Design And Build

Application Description: OUTLINE – Residential development of 3 No dwellings – re-submission of 13/01873/OUT

Committee Referral: Major in site area (over 1ha)

Committee Date: 03.09.2015

1. Site Description and Proposed Development

- 1.1 The site comprises a 1.38 hectare flat area of rough grassland to the north east of Merton Village. To the south west of the site are St.Swithun's Church and the two small residential closes of Church Close and Manor Farm Close, whilst to the east of the site is Manor House Care Home. Open countryside lays to the north and west of the site. The site is bounded by mature hedgerows to the north, west and partially to the east, with a public footpath (295/2) running diagonally across the southern corner adjacent to St. Swithun's Church to the northern corner. A stone wall forms the boundary with the church. Access to the site is via a field gate between No.4 Manor Farm Close and the Dovecote.
- 1.2 Outline planning permission is sought for the construction of three residential units with all matters reserved. An Archaeological Evaluation, Ecological Appraisal, Landscape And Visual Impact Appraisal, Planning Design and Access Statement, Heritage Statement and Flood Risk Assessment have been submitted. An indicative block plan displaying three detached dwellings to the south east corner of the site has also been submitted.
- 1.3 The site is not within a Conservation Area, but the site is within close proximity to listed buildings. St.Swithun's Church, which is situated to the south east of the site is a Grade I listed building. To the north east of the site is a Grade II listed building within the grounds of the Manor House Care Home. The site is within an area of significant archaeological interest and potentially contaminated land. There are Brown long-eared bats and swifts in the area and the potential for Great Crested Newts in the 3 ponds adjacent to the site.
- 1.4 A screening opinion in July 2015 (15/00072/SO refers) concluded that an EIA was not required for the proposed development.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter, press notice and site notice. The final date for comment was the 13th August 2015. 16 letters have been received from 14 people who object to the proposal and a petition objecting to the proposal has been received with 111 signatures. These concerns are summarised below:
 - A scheme for 9 houses at the site was considered inappropriate development last year and the reasons for refusal are relevant to this application;

- The proposal is contrary to local and national policy;
- Unsustainable development beyond the built up limits of Merton;
- Merton is limited to infilling and conversions and the proposal does not fall within both of these categories;
- Merton is not classed as a growth settlement;
- Merton is not a sustainable settlement. There is no village shop, public house or school and public transport is limited (car reliance) and Merton is at least 5 miles from Bicester and 2 miles to the nearest village Ambrosden;
- The need for sustainable locations in the locality has been met by developments in Arcott and Ambrosden, which are considerably more sustainable settlements, as well as the construction sites at Kingsmere in Bicester and Caversfield and the proposed developments at Graven Hill;
- Represents development which encroaches into the open countryside;
- Fails to maintain the rural character and appearance of the area;
- Fails to conserve, enhance and respect the historic settlement pattern/Out of keeping with and causes harm to the existing form and character of the area/Merton is a linear village; the proposal is a significant deviation from this built form;
- The proposal would set a precedent for further development on this site;
- Unduly affects the setting and significance of St Swithun's Church (a Grade I listed building) and Manor House (a Grade II listed building);
- Development on this land will harm the setting and significance of the earthworks;
- The site is of archaeological interest;
- Cause adverse harm to the amenities of the neighbouring properties by increased vehicular activity in an otherwise quiet tranquil environment;
- Highway safety concerns:
 - The access land is of inadequate width;
 - Visibility issues;
 - Does not meet OCC Highway criteria and standards.
- Great Crested Newts have been spotted within close proximity to the site and there are concerns how the proposed development would impact upon this protected species;
- The proposal would cause harm to bats;
- The footpath running through the site would no longer be enjoyable for the public;
- The site is lower lying in formation level than adjacent built up areas, with an adjacent field known to flood. The concern is that development may compound the problem.
- Disruption from construction;
- No neighbourhood consultation;
- Concerned about the ability of existing services to meet any possible development, in particular, with respect to foul and storm water drainage. In addition there may be limitations on a suitable clean water supply/water pressure issues;
- There is no indication on how infrastructure or local services will be improved or how the village will benefit in such a manner;
- Land ownership concerns;
- More houses will create internet speed issues.

3. Consultations

- 3.1 Merton Parish Council: Object to the application. The comments from the Parish Council have been edited (see below) and the full comments are available to view on the Council's website.

“Merton Parish Council wishes to place on record its formal objection to the above planning application, to build 3 houses on the land to the north of St Swithun’s Church in Merton, Oxfordshire. This application is a scaled-down resubmission of application 13/01873/OUT, which was for a considerably larger development of 9 houses, which was refused on Friday 20th June 2014. The Parish Council wishes to register its objection to this new application on two main grounds:

1. In the Adopted Cherwell Local Plan (2011-2031) part 1, Policy Villages 1 (village categorisation), Merton is classified as category C village. This categorisation limits development to:

- i) Infill, and*
- ii) Conversions*

As with the previous application, the current application does not represent either infill or conversion. It lies on open farmland outside of the village envelope, and as such is not in keeping with the existing character and form of the village, which is largely a ribbon development on either side of the main road. Furthermore, it is in close proximity to a Grade 1 listed church (St Swithun’s), and would be to the considerable visual detriment of both church and churchyard. Finally, it lies immediately behind the properties in Church Close and Manor Farm Close, and would dramatically alter the character and amenity of those locations.

2. Our understanding is that the Planning Department is obliged to consider solely the application that has been placed before it, without being swayed by any implications or inferences that do not form part of the substantive application. For its part however, the Parish Council wishes to place on record the observation that this new application has every sign of simply being an opening gambit for a more extensive intended development. If the current application were to be approved, it seems to us that it might ease the passage of future applications to bring the development up to (or beyond) the scale of the earlier and refused application 13/01873/OUT.”

NPPF Principles

“NPPF paragraph 14 makes it clear that permission should be granted unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Our view is that there are adverse impacts in respect to heritage assets, form and character of the village and harm to neighbours’ amenity.

In respect to housing policies, paragraph 49 of the NPPF states that “Housing applications should be considered in the context of the presumption in favour of sustainable development.”

Cherwell Local Plan

“At the outset, it must be noted that there has been no neighbourhood consultation, prior to this proposal being submitted.

The Cherwell Local Plan 2011-2031 (Policy Villages 1) determines that Merton is classed as a Category C settlement, for which category the policy limits development to infill and conversions. In contrast, the current application must be characterised as backland development.

The purpose of categorising villages is to ensure the most sustainable distribution of growth across the rural areas. The approach is taken from the previous adopted

Local Plan with the underlying purpose of imposing tight restrictions on the scope of further residential development because villages such as Merton are inherently poor in terms of services and facilities. This proposal would also risk further harm to the character of this area which could arise from the precedent that may be set.

The proposal clearly conflicts with policy as the site is beyond the built-up limits of the village and lies in open countryside. In terms of other relevant policies in the Local Plan, Policies ESD13, and ESD15 are particularly relevant to this application as they deal with landscape impact and built development which will be considered later.”

Village Character & the Nature of the Site

“It is both acknowledged and addressed within the 2011-2031 Local Plan that several villages within Cherwell District would benefit from a small increase in the number of properties.

Merton is a linear village which developed to either side of the main road, as did many small villages which grew up along the roads to other larger settlements. There are very few instances of development away from these frontages, and those that do exist are either farmyards or late 20th Century developments, breaking the natural line of the village.

Due to its location behind the church and away from the village street, the proposed development effectively ‘turns its back’ on the remainder of the village. This is contrary to policy ESD 15 of the 2011-2031 Local Plan (respecting the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings).

- *The development is backland rather than infill.*
- *The site is on existing agricultural land.*
- *The site is not within the defined village framework.*
- *Merton is a linear village; the proposal is a significant deviation from this built form.*
- *“Therefore, these proposals can only be termed development in open countryside and contrary to current local policy.”*

Impact on Heritage Assets, Form & Character of the Area

“In respect to adverse impacts, the site is within the setting of St Swithun’s Church (Grade I listed building) and the Manor Housing Nursing Home (Grade II listed building); other nearby listed buildings are The Homestead and Little Chippers on the opposite side of the road, and The Tithe Barn close to the Church.”

“The proposal fails to interact with the church, it erodes the relationship between the church, the archaeology and the fields beyond, thereby harming the setting of the building. The close proximity of the site to two listed buildings, both significant in their layout and relationship with the fields to the north, means that the setting of both of these structures is detrimentally affected. The proposal will form a cluster of residential units that would enclose the listed church and The Manor House, resulting in an intensive urban form of development that would be at odds with, and would harm, the rural setting of the listed buildings. Thus, the proposal would conflict with Policy ESD 15. It would also conflict with advice in the NPPF in paras 132 and 134.

In terms of its built form, Merton is predominately a linear village and with the exception of a few farmsteads that spur out of the built up parts of the village; the village has built up with small closes of 4-6 dwellings just branching off the main street through the village. The proposal would not create a small close branching off the main street; it would involve the creation of a backland form of development with

an access road that winds between and around the rear of existing houses. It would transform the rural setting of the listed buildings and prevailing linear pattern of residential dwellings along the main street, representing an incongruous form of development that would fail to respond appropriately to the essential character of the area. Therefore the development would conflict with Policy ESD 15 of the Local Plan, which requires, among other things, that developments respect historic settlement patterns and are sympathetic to the character and appearance of the area. The scheme would also fail to meet the requirements of paragraph 58 of the NPPF which aims to ensure that development adds to the overall quality of the area.

Furthermore, given that the site is a field on the edge of the village with a well-used public footpath running across it, it can be established that the site will be visible from the public domain.

It is considered that the proposal will have a detrimental impact on the landscape and furthermore would also cause harm to the enjoyment of the footpath by the public as the footpath would go straight through a housing development instead of a rural field that affords views to and from the Grade 1 listed church and the countryside beyond. It is our view that the potential benefits of the proposed development do not outweigh the significant harm, having regard to what the NPPF says about the importance of protecting and enhancing the built and historic environments; considering the impact of a proposal on heritage assets, with the need to avoid or minimise the conflict between development proposed and the heritage asset's conservation; the characteristics of historical settlement patterns and the local environment. All of this is contrary to paragraph 132 of the NPPF.

In this regard, therefore, the proposal would not constitute sustainable development and consequently, in accordance with Paragraph 14 of the NPPF, the proposal would cause significant harm and adverse impacts that demonstrably outweigh the benefits.”

Impact on Residential Amenity

“In outline form, the indicative layout demonstrates the possible form that the development might take if approved. This essentially avoids the public footpath and the majority of the archaeology within the site. The access to the site runs directly between three existing dwellings (The Dovecote and 3 & 4 Manor Farm Close). Given this close proximity, vehicle movements along the access are likely to increase the level of noise and disturbance in these adjacent dwellings and their relatively small back gardens, which occupiers would be likely to find intrusive.

Other neighbouring properties affected include The Manor House Nursing Home, 2, 3 & 4 Manor Farm Close, and 2 & 3 Church Close, all of which enjoy a tranquil environment, free from vehicle noise and disturbance and the general level of activity associated with a residential development.

The site is an unimproved field that is unused at present. The proposal would result in permanent development, which given the village's limited public transport, would necessitate the use of private transport. As such, the proposal would cause detriment to the living conditions of adjacent residential properties through the introduction of increased vehicular activity in an otherwise quiet, tranquil backland site and contrary to policies of the CLP and the guidance contained within the NPPF at paragraph 123. In terms of sustainability, Merton is at least 5 miles from Bicester and 2 miles to the nearest village (Ambrosden), it has limited public transport, reliance would be on the private vehicle use, there are limited facilities and therefore the site is not sustainable in terms of accessibility and contrary to the government guidance contained within the NPPF.”

Need & Alternatives

“Merton is not classed as a growth settlement in the current 2011-2031 Local Plan. Although not in green belt, the village is on the edge of the designated area that washes across open countryside from Oxford. In consequence, any such development may have a serious and harmful impact on the important green belt area (contrary to Policy ESD 14 of the local plan).

While the NPPF 2012 does support development of such small-scale proposals, there are many more sites that suit such development in the wider southern area of the district and in more sustainable locations.

Such need as exists within the immediate locality has been met by developments in Arncoth and Ambrosden, which are considerably more sustainable settlements, as well as by the new sites under construction at Kingsmere in Bicester, the proposed development to the north of the town towards Caversfield, and the development at Graven Hill.

There is no proven need for such development in Merton. If there were, there are considerably better sites that could be considered on the extremities of the settlement to extend its natural linear nature.”

Sustainable Development

“Merton is not a sustainable settlement:

- i) There is no village shop, public house or school.*
- ii) Public transport is limited.*
- iii) Ideally, new developments within Merton should help alleviate this situation. There is no indication that this proposed development would do so. Any long-term local economic benefit would be limited to profit for the landowner and developer. Moreover, there is no guarantee that even the short-term benefit of employment during the construction phase would be given to be given to local persons.*

There is no indication or evidence of how infrastructure or local services would be improved, or how the village itself would benefit from any such development.”

Infrastructure & Services

“Concern is raised over the ability of existing services to meet any possible development, in particular with respect to foul and storm water drainage. In addition there may be limitations on a regular and suitable clean water supply, as mains water pressure would be affected by the additional demand. Given the location of the village, private transport would be required.”

Highways & Access

“There are number of highway concerns:

- Access is only via a 4.8m lane with 3.0m vehicular lane and 1.8m service strip.*
- This access has an inadequate width for service and emergency vehicles.*
- The access has no passing points.*
- There would be insufficient space for a pedestrian footway.*
- The access does not meet OCC Highway criteria and standards, therefore would not be adoptable.*
- The access lies in close proximity to other accesses and the busy Manor*

House nursing home.

- *The public footpath across the site would lose its amenity value.”*

Footpaths

“The proposal would cause harm to the enjoyment of the footpaths, as the route would take the public through a residential development instead of an attractive field within the setting of the listed church and open countryside. In the opinion of Cherwell’s Landscape Officer, the enjoyment by the public using the footpaths would be significantly harmed and diminished as a consequence.”

Ecology

“There are many ecological concerns on the site. The findings of the November 2013 ecological appraisal are:

- *The grassland within the field is species-poor.*
- *The hedgerow along the northern boundary is species rich and meets the criteria to be designated a ‘nationally important hedgerow’ under the Hedgerow Regulations 1997. This hedge is also likely to provide habitat for birds, great crested newts and foraging bats and badgers.*
- *Badgers forage within the site but no setts were found.*
- *There are no ponds within the site but nearby ponds may be used by Great Crested Newts, whose range may also include the application site.*
- *Swifts are known to nest nearby.”*

Archaeology

“The site contains significant archaeological features, with large and established earthworks, many of which are thought to be medieval.

The site is located in an area of considerable archaeological potential, immediately to the north of the 13th Century St Swithun’s Church. This is likely to have formed the focus of the medieval development of the village. The site also contains a series of earthworks representing a deserted medieval settlement and house platforms.

A probable Knights Templar’s Preceptory or Grange has been identified through aerial photographs. Archaeological features from Saxon through to medieval times were also recorded 130 metres northeast of the site during the development of the Manor House Nursing Home. Roman pottery has been recovered to the south and to the east of the site.

The archaeological evaluation already undertaken on the site recorded a number of archaeological features and earthworks related to the medieval village on the western side of the site and a smaller number of features on the eastern side, within the area of the proposed development.

The features included ditches and pits but no evidence of the stone buildings suggested by the geophysical survey. The report concluded that the western part of the site was occupied from at least the 11th Century and may have been occupied through to the 18th. The eastern side of the site may have been used for agricultural or pastoral purposes, and an earthwork bank may have formed a boundary between these areas.

Development on this site could eradicate some of these features, and harm the remainder. It is now common archaeological practice in Europe to protect archaeological sites and to defer their further excavation until such time as proper resources and improved archaeological techniques become available.”

Ownership

“At the time of the previous planning application (13/01873/OUT), it appears that there was a dispute over the ownership of some of the land forming the entrance to the proposed development. We do not know whether or not this issue has been resolved, but if it has not, it would have a significant impact on the feasibility of access into the proposed development, especially in terms of the visibility splay when entering the main street.

In relation to this, a separate planning application by the owner of 4 Manor Farm Close (15/00940/F) shows the disputed land as belonging to that property.”

Drainage

“The site is lower lying than neighbouring built-up areas, with an adjacent field that is known to flood. The concern is that drainage to and from the various ponds in the area could be impacted by the development and potentially exacerbate flooding problems.”

Cherwell District Council Consultees

3.2 Ecology Officer: *“The findings of the November 2013 ecological appraisal are outlined below:*

- The grassland within the field is species-poor;*
- The hedgerow along the northern boundary is species rich and meets the criteria to be designated a ‘nationally important hedgerow’ under the Hedgerow Regulations 1997. This hedge is also likely to provide habitat for birds, great crested newts and foraging bats and badgers.*
- Badgers forage within the site but no setts were found.*
- There are no ponds within the site but nearby ponds may be used by Great Crested Newts (GCN), as such they may also be present within the application site. If GCN are present nearby mitigation to exclude them from the site during development would be possible.*
- Swifts are known to nest nearby.*

Given this, I would recommend the following:

- The layout preserves the existing northern hedgerow and hedge bank. Currently one dwelling is indicated as being very close to it which may result in its compromise in the future due to its proximity to the dwelling.*
- A great crested newt survey should be carried out before any works start on site, in order to determine any mitigation that may be required.*
- Swift nest boxes and bat boxes should be incorporated into the new dwellings as a biodiversity enhancement.*
- All new landscaping should consist of native species only.”*

3.3 Arboricultural Officer: No objections in principle.

3.4 Environmental Protection Officer: *“I have no objections to this development relating to land contamination and recommend contaminated land conditions are applied to demonstrate its consideration and the safety of the development. As a proposed residential property, it is a sensitive land use and the future users would be vulnerable to contamination. I recommend applying these conditions to ensure information is provided which demonstrates the site is safe (or can be made so through remedial works) and assessments have been undertaken to adequately*

consider whether this development proposal will be affected land contamination.”

- 3.5 Design & Conservation Officer: *“The proposal is for an infill development of 3 dwellings within the village of Merton.*

Merton is a Category C village which limits development to either infill or conversion. Merton, typical of many of the villages on Otmoor, is a small settlement with ‘ribbon development’ – that is to say the houses mostly front the highway. The housing density is relaxed.

This proposal is to develop land set back to the north of the main road through Merton. This land is part of an area which includes archaeological earthworks and therefore it is most likely that the area possesses some archaeological potential.

The proposal is unacceptable in principle as in several respects it fails to comply with Policy ESD15. The site is a ‘backland’ one (houses do not directly front the highway). Further the indicative roofscapes, the layout of the 3 houses and their garages and the boundary treatments appear alien and non-traditional and thus fail to respect the traditional settlement pattern. As this is simply an outline application (no specific details of dwellings) the full extent of the impact of this proposed development upon the appearance and character of the village is unknown.

Recommend refusal.

Contrary to policy.

The Cherwell Local Plan 2011-2013 (

ESD15 – the proposal fails to respect the traditional settlement pattern and does not integrate with existing streets and public spaces. Fails to contribute positively to the area’s character and identity by failing to reinforce local distinctiveness.

Policy Villages 1 – categorisation.

NPPF

#55 – unsustainable location.

#134 – the proposal would result in undue harm to the setting of St Swithun’s Church (Grade I).

#135 – unacceptable impact on the setting/significance of the non-designated but local important archaeology (local heritage asset).

#139 – unacceptable harm to an important area of non-designated archaeological interest.”

- 3.6 Planning Policy: No comments received to date.

- 3.7 Landscape Officer: *“This is a submission for 3 dwellings reduced from 9 in application 13/01873/OUT. I made comments on that application in April 2014 and don’t propose to repeat them here. General comments on the character of the area and visibility of the site in the wider landscape still apply. The LVIA has not been updated to take account of the reduced number of dwellings. The visual effects will be similar as the development occupies a reduced portion of the same area. The effects are mainly confined to within the field boundary of the site.*

The reduction in the number of dwellings results in 3 dwellings being tacked onto the back of existing properties in Manor Farm Close and Church Close. This is out of character with other properties in Merton which lie on road frontages not as back-land developments. The location behind the village street turns its back on the street and on the village. They don’t follow the existing settlement pattern and as such the proposal is out of character with the village.

The proposal encroaches into open countryside, affects the enjoyment of the PRow which dissects the field. I don't believe that the proposal can be adequately mitigated and should therefore be refused."

Oxfordshire County Council Consultees

3.8 Local Highways Authority: No objections subject to the following conditions:

- Prior to the commencement of the development hereby approved, full details of the means of access between the land and the highway, including, position, layout, construction, drainage and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the means of access shall be constructed and retained in accordance with the approved details.
- Prior to the commencement of the development hereby approved, full specification details of the access drive including construction, surfacing, layout, drainage and road markings, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of the development shall be constructed in accordance with the approved details.
- Prior to the commencement of the development hereby approved, full specification details (including construction, layout, surfacing and drainage) of the parking and manoeuvring areas shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the parking and manoeuvring areas shall be provided on the site in accordance with the approved details and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.

3.9 Archaeology: *"The site is located in an area of archaeological potential as shown by the applicants desk based archaeological assessment and a number of phases of archaeological evaluation. The site is located 90m north east of the C13th St Swithun's Church (PRN 4123). This is likely to have formed the focus of the medieval development of the village. The site also contains a series of earthworks representing a deserted medieval settlement and house platforms (PRN 24717). A probable Knights Templar's Preceptory or Grange has been identified through aerial photographs 80m NE of the site (PRN 13903). Saxon through to medieval archaeological features have also been recorded 130m NE of the site during the development of the Manor House Nursing Home (PRN 16821). Roman pottery has been recovered to the south of the site (PRN 4219) and to the east (PRN 1806).*

The archaeological evaluation undertaken on the site recorded a number of archaeological features and earthworks related to the shrunken medieval village immediately west of the site and a smaller amount of features within the area of the proposed development. The features included ditches and pits but no evidence of the stone buildings suggested by the geophysical survey. The report concludes that the western part of the site was occupied from at least the C11th and may have been occupied through to the C18th. The eastern side of the site may have been used for agricultural or pastoral purposes and that an earthwork bank between the two areas may have formed a boundary between these areas.

We would, therefore, recommend that, should planning permission be granted, the applicant should be responsible for ensuring the implementation of a staged programme of archaeological investigation to be maintained during the period of construction."

Other Consultees

- 3.10 Historic England: *“The proposed development is adjacent to the Grade I listed church of St Swithun and to non-designated earthworks. In our previous advice on the previous proposals we have advised that they would cause harm to these historic assets.*

In our view the current proposals offer considerably reduced levels of harm to the significance of the Grade I church through the impact upon its setting. You will wish to take the advice of the County Archaeologist on potential impacts upon non-designated archaeological remains.

We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.”

- 3.11 Thames Water: No objections in relation to sewerage infrastructure capacity and water infrastructure capacity.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Cherwell Local Plan 2011-2031 Part 1

PSD1: Presumption in Favour of Sustainable Development
BSC1: District Wide Housing Distribution
BSC2: The Effective & Efficient Use of Land – Brownfield Land and Housing Density
ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
ESD13: Local Landscape Protection and Enhancement
ESD15: The Character of the Built and Historic Environment
Policy Villages 1: Village Categorisation

Cherwell Local Plan 1996 (Saved Policies)

H18 New dwellings in the countryside
C8: Sporadic development in the open countryside
C28: Layout, design and external appearance of new development
C30: Design of new residential development
C31: Compatibility of proposals in residential areas
C33: Retention of undeveloped gaps of land
ENV1: Pollution Control
ENV12: Contaminated Land

4.2 Other Material Policy and Guidance

National Planning Policy Framework (2012)

Planning Practice Guidance (2014)

5. Appraisal

5.1 The key issues for consideration in this application are:

- Relevant Planning History;
- The Principle of the Development;
- Design and Landscape Impact;
- Impact on the Heritage Assets;
- Residential Amenities;
- Highways Safety;
- Ecological Impact;
- Other Matters.

Relevant Planning History

5.2 13/01873/OUT – Residential development of up to 9 dwellings – Refused.

An outline application, with all matters reserved, on the same site as this current application was refused on June 2014 for the following reasons:

1. Notwithstanding the Council's present inability to demonstrate that it has a 5 year supply of housing land required by Paragraph 47 of the NPPF, the development of this site cannot be justified on the basis of the land supply shortfall alone. The proposal represents unsustainable development beyond the built up limits of Merton with no case being made for its 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, it represents development which encroaches into the open countryside and causes demonstrable harm to the setting and significance of designated Heritage Asset, the Grade I listed St. Swithun's Church contrary to Paragraph 14 of the NPPF and also the enjoyment of the footpath that runs across the site by the public. It also fails to maintain the rural character and appearance of the area and to conserve, enhance and respect the environment and historic settlement pattern by introducing an incongruous, prominent, urbanising and discordant built form of development into this rural setting, injurious to its character and appearance and would also risk further harm to the character of this area which could arise from the precedent that may set. The application is, therefore, contrary to Policies H18, C7, C8, C27 and C30 of the adopted Cherwell Local Plan, Policies ESD13 & ESD16 and Villages 1 of the Submission Local Plan January 2014 and Government guidance contained in the National Planning Policy Framework.
2. The proposal would result in the residential development of land in an unsuitable backland position served by an access way between and behind residential dwellings, which is out of keeping with and causes harm to the existing residential form and character of the area. Furthermore, the development would be detrimental to the amenities of the adjacent residential properties by reason of the introduction of increased vehicular activity in an otherwise quiet and tranquil environment. The proposal is therefore contrary to the Policies C27, C30 and C31 of the adopted Cherwell Local Plan and Policy ESD16 of the Submission Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.
3. In the absence of a satisfactory planning obligation, the Local Planning Authority is not convinced that the affordable housing directly required as part of this scheme will be provided. This would be contrary to the Policy H5 of the adopted Cherwell Local Plan, Policy INF1 of the Submission Cherwell Local Plan and government guidance contained within the National Planning Policy Framework.

Since the refusal of this application, Cherwell District Council has an up-to-date Local Plan and can demonstrate a five year supply of deliverable housing sites.

The Principle of the Development

- 5.3 Paragraph 14 of the National Planning Policy Framework (NPPF) states that a presumption of sustainable development should be seen as a golden thread running through decision taking. There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to preform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.
- 5.4 Paragraph 12 of the NPPF notes that the development plan is the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015.
- 5.5 Cherwell District Council can demonstrate a five-year supply of deliverable housing sites therefore the presumption in favour of sustainable development, as advised by the NPPF, will therefore need to be applied in this context.
- 5.6 Policy Villages 1 of the Cherwell Local Plan Part 1 groups villages into three separate categories (A, B and C). Policy Villages 1 classifies Merton as a Category C village, which restricts new residential development to infilling and conversions. Infilling refers to the development of a small gap in an otherwise continuous built-up frontage. Category C settlements are considered the least sustainable settlements in the District's rural areas and are inherently poor in terms of services and facilities. The site is clearly not within the built up limits of the village and is in open countryside therefore the proposal conflicts with Policy Villages 1 of the Cherwell Local Plant Part 1.
- 5.7 Saved Policy H18 of the Cherwell Local Plan therefore 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 Cherwell Local Plan 1996.
- 5.8 Paragraph 55 of the NPPF states that: *"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances."*
- 5.9 Officers consider that saved Policy H18 is broadly consistent with the NPPF and therefore weight can still be attached to them. Inspectors have recently concluded that these policies were in particular consistent with Paragraph 55 of the NPPF and attached considerable weight to them.
- 5.10 The proposal is considered to represent unsustainable new build residential development outside of the boundary of a Category C settlement which inherently poor in terms of services and facilities and is not well served by public transport. Merton is also at least 5 miles away from Bicester and 2 miles to the nearest village of Ambrosden. 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.

- 5.11 The construction of 3 dwellings in this location is unsustainable and constitutes an inappropriate form of development, contrary to the Policies within the Cherwell Local Plan Part 1, Cherwell Local Plan 1996 and Government guidance contained within the NPPF.

Design and Landscape Impact

- 5.12 Government guidance contained within the NPPF requiring good design states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Further, permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.
- 5.13 Policy ESD13 of the Cherwell Local Plan Part 1 states that: *“Opportunities will be sought to secure the enhancement of the character and appearance of the landscape, particularly in urban fringe locations.”* Policy ESD13 goes on further to note that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to the local landscape character cannot be avoided. Policy ESD13 also states that: *“Proposals will not be permitted if they would:*
- *Cause undue visual intrusion into the open countryside;*
 - *Cause undue harm to important natural landscape features and topography;*
 - *Be inconsistent with local character;*
 - *Impact on areas judged to have a high level of tranquillity;*
 - *Harm the setting of settlements, buildings, structures or other landmark features: or*
 - *Harm the historic value of the landscape.”*
- 5.14 Policy ESD15 of the Cherwell Local Plan Part 1 states that: *“Successful design is founded upon an understanding and respect for an area’s unique built, natural and cultural context. New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design.”* Policy ESD15 goes on to note that new development proposals should respect the traditional pattern of routes, spaces, blocks, plots and enclosures and the form, scale and massing of buildings.
- 5.15 Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context.
- 5.16 Saved Policy C33 of the Cherwell Local Plan 1996 states that the council will seek to retain any undeveloped gap of land which is important in preserving the character of the loose-knit settlement structure or in preserving a view or feature recognised amenity or historical value. The supporting text of this policy states that: *“Not all undeveloped land within the structure of settlements can be built on without damage to their appearance and rural character. Where the existing pattern of development is loose-knit there will often be a compelling case for it to remain so for aesthetic, environmental and historical reasons... Proposals that would close or interrupt an important vista across open countryside will also be discouraged, as will the loss of trees of amenity value or the loss of features such as boundary walls whether they constitute an important element of an attractive or enclosed streetscape.”*
- 5.17 As stated in paragraph 5.6 above, Merton is a small village designated as a Category

C settlement to which Policy Villages 1 of the Cherwell Local Plan Part 1 applies. This policy restricts new residential development to infilling and conversions within the settlement. The proposal seeks permission for residential development outside the village settlement on land that is undeveloped.

- 5.18 The archaeology to the north and west of St Swithun's Church shows that the village used to be nucleated around the church, as was common in many early settlements. Enclosure occurred late in Merton, in 1763, at which the road was moved to its present location. There is evidence to suggest that it was around that time that the structures to the north of the church began to fall into disuse. In terms of built form today, Merton is predominantly a linear village. There are very few instances of development away from these frontages, and those that do exist are either farmyards or late 20th Century developments, breaking the natural line of the village. Even at these points though, the furthest properties can be seen from the road, meaning that they stay 'in touch' with the road, in much the same way as the manor house outbuildings did, and the church itself. The proposal would not create a small close branching off the main street, it would involve the creation of a 'backland' form of development with an access road that is sited to the rear of existing houses. There is very little to visually connect the former nucleated settlement with the existing linear one, even the earthworks and features in the field to the north and east of the church are not visible unless within the churchyard or looking back from the open fields. To attempt to recreate the nucleated settlement by encouraging 'backland' development behind would not be an ethical continuation of the settlement pattern, as this is a pattern which no longer exists. As a public footpath runs through the site, these three dwellings would be noticeable from this well-used public right of way. Officers consider that the proposed development would transform the prevailing linear pattern of residential dwellings along the main street, representing an incongruous form of development that would fail to respond appropriately to the essential character of the area.
- 5.19 Consideration has been given to the Landscape Visual Impact Assessment (LVIA) which was submitted in support of the application for the Local Planning Authority to ascertain the landscape and visual impact of the development. However the LVIA only serves to support the view held by officers, which is that the proposal would have a detrimental impact upon the character and appearance of the rural landscape and would result in inappropriate encroachment into the open countryside. The proposal would also risk further harm to the character of this area which could arise from the precedent that may be set.
- 5.20 The proposal would encroach into the open countryside and fail to maintain the rural character and appearance of the area and to conserve, enhance and respect the environment and historic settlement pattern by introducing an incongruous, prominent, urbanising and discordant built form of development into the rural setting. Thus, the proposal would result in unacceptable harm to the character and appearance of the area and would also risk further harm to the character of this area which could arise from the precedent it may set. The proposal is therefore contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan, saved Policies C28 and C33 of the Cherwell Local Plan 1996 and Government guidance contained within the NPPF.

Impact on the Heritage Assets

- 5.21 In respect to adverse impacts, the site is within the setting of St Swithun's Church, a Grade I listed building, and the Manor House Nursing Home, Grade II listed building. Other listed buildings are on the opposite side of the road (The Homestead and Little Chippers) and the Tithe Barn is close to the Church. In addition to this, the site forms part of non-designated earthworks.

- 5.22 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard to the desirability of preserving a listed building or its setting should be taken. In this case it is the setting of the listed buildings that is to be considered. The applicant has submitted a Heritage Statement.
- 5.23 Paragraph 132 of the NPPF states that: *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the heritage asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II* listed buildings, grade I or II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.”*
- 5.24 Paragraph 134 of the NPPF advises that harm to the significance of a designated heritage asset needs to be weighed against the public benefits of the proposed development, and that ‘a balanced judgement’ needs to be made with respect to non-designated heritage assets.
- 5.25 Paragraph 139 of the NPPF notes that non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.
- 5.26 Policy ESD15 of the Cherwell Local Plan Part 1 states: *“Where development is in the vicinity of any of the District’s distinctive natural or historic assets, delivering high quality design that complements the asset will be essential.”* Furthermore, Policy ESD15 states that new development proposals should: *“Conserve, sustain and enhance designated and non-designated ‘heritage assets’ (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG.”*
- 5.27 Saved Policy C33 of the Cherwell Local Plan 1996 states that the council will seek to retain any undeveloped gap of land which is important in maintaining the proper setting for a listed building or in preserving a view or feature of recognised amenity or historical value. The supporting text of the policy states that: *“Proposals that would close or interrupt an important view of a historic building e.g. a church or other structure of historical significance, will be resisted under this policy. The Council will also have regard to the importance of maintaining the setting of a listed building and will resist infill development that would diminish its relative importance or reduce its immediate open environs to the extent that an appreciation of its architectural or historical importance is impaired.”*
- 5.28 The PPG (Paragraph 13 Reference ID 18a-013-20140306) advises that: *“A thorough assessment of the impact on setting needs to be taken into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it. Setting is the surrounding in which an asset is experienced and may therefore be more extensive than its curtilage. All heritage assets have a setting, irrespective of the form in which they survive and whether they are designated or not.”*
- 5.29 The PPG goes on further to state that: *“The extent and importance of setting is often expressed by reference to visual considerations. Although views of or from an asset will play an important part, the way in which we experience an asset in its setting is*

also influenced by other environmental factors such as noise, dust and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each. The contribution that setting makes to the significance of the heritage asset does not depend on there being public rights or an ability to access or experience that setting. This will vary over time and according to circumstance.”

- 5.30 The proposal is in outline form only, with all matters reserved, but an indicative layout plan has been submitted along with the application to demonstrate that the site could accommodate the residential development of three dwellings. The layout is such that the three detached dwellings, each with detached garages, would be located to the east of the site, avoiding the public right of way.
- 5.31 Historic England have noted that the proposed development is adjacent to the Grade I listed church of St Swithun and to non-designated earthworks and that in their previous advice on the previous proposal they advised that the proposal would cause harm to these historic assets. Historic England state that the current proposals offer considerably reduced levels of harm to the significance of the Grade I listed church through the impact upon its setting and notes that the LPA should take the advice of the County Archaeologist on potential impacts upon buried non-designated archaeological remains.
- 5.32 In relation to this proposal, the County's Archaeologist has stated that: *“The site is located in an area of archaeological potential as shown by the applicants desk based archaeological assessment and a number of phases of archaeological evaluation. The site is located 90m north east of the C13th St Swithun's Church (PRN 4123). This is likely to have formed the focus of the medieval development of the village. The site also contains a series of earthworks representing a deserted medieval settlement and house platforms (PRN 24717). A probable Knights Templar's Preceptory or Grange has been identified through aerial photographs 80m NE of the site (PRN 13903). Saxon through to medieval archaeological features have also been recorded 130m NE of the site during the development of the Manor House Nursing Home (PRN 16821). Roman pottery has been recovered to the south of the site (PRN 4219) and to the east (PRN 1806).*
- 5.33 The County's Archaeologist goes on to note that: *“The archaeological evaluation undertaken on the site recorded a number of archaeological features and earthworks related to the shrunken medieval village immediately west of the site and a smaller amount of features within the area of the proposed development. The features included ditches and pits but no evidence of the stone buildings suggested by the geophysical survey. The report concludes that the western part of the site was occupied from at least the C11th and may have been occupied through to the C18th. The eastern side of the site may have been used for agricultural or pastoral purposes and that an earthwork bank between the two areas may have formed a boundary between these areas.”*
- 5.34 It is therefore considered that the proposal would not in principle cause harm to the archaeology, whilst only in outline form with all matters reserved, the proposed built development could be sited sufficiently far enough away from the more significant earthworks to the west of the site. The County Archaeologist recommends a condition is attached if consent is granted which notes that the applicant should be responsible for ensuring the implementation of a staged programme of archaeological investigation to be maintained during the period of construction.
- 5.35 However, The Conservation Officer still has concerns regarding the impact upon the setting of the Grade I listed church and your officers share these concerns. The

development would be seen in the setting of the Grade I listed Church of St Swithun. Setting is not merely the view of or from an asset. It is the surroundings within which a heritage asset is experienced. Regarding the church therefore, this is very difficult to define, a church is designed to stand out in its landscape, being tall, solid and often surrounded by a patch of land and a wall. The result is that it can be appreciated 'in the round'. In this case, the Church of St Swithun is particularly visible from the north, as there is open countryside beyond, across which a public right of way runs. The Church is therefore appreciated within an area of open countryside, which does not just extend directly northwards from the churchyard, but also to the north west and northeast. The proposed development would therefore transform the rural setting of the listed building.

- 5.36 In the previous application at the site for nine dwellings, Historic England (then English Heritage) stated that: *"The significance of the church lies partly in its illustrative value. It allows for an appreciation of the former prosperity of the settlement from which the church drew its income... The earthworks in the setting contribute to this significance by showing how the medieval settlement was once larger and has now contracted. When looking out from the churchyard it is possible to gain an awareness of the changing fortunes of the parish over time and that people once lived in a place which is now simply a field and worshipped at the nearby church."* The archaeology plays an important part in the narrative of the village and therefore contributes to the setting of this Grade I listed building. The removal of the earthworks would lead to an irreversible loss of historic narrative in the development of the village and would remove the contribution made by this element of the setting to the significance of the church, therefore harming the significance of the designated heritage asset.
- 5.37 In relation to the nearby Grade II listed Manor House within the grounds of the Care Home, officers hold the view that the dwellings on this site would enclose this heritage asset by introducing an urbanising built form of development that would be at odds with, and would harm the rural setting of this listed building.
- 5.38 Officers consider that three dwellings could be constructed on the site without unduly affecting the setting of the listed buildings across the road from the site and Tithe Barn given the distance between the site and these buildings and because of intervening landscaping and structures.
- 5.39 Should development be permitted on this site, Officers consider that this would cause demonstrable harm to the setting and significance of the Grade I listed church, as it would erode the relationship between the church and the landscape beyond, including the archaeology. Furthermore, it is considered that the proposal would unduly affect the setting of the Grade II listed Manor Farm. Thus, the proposal would conflict with Policies ESD13 and ESD15 of the Cherwell Local Plan Part 1, saved Policy C33 of the Cherwell Local Plan 1996 and Government guidance contained within the NPPF.

Residential Amenities

- 5.40 Whilst in outline form, the revised indicative layout demonstrates the possible form that the proposed layout could take if approved. The access to the site runs directly between three existing dwellings (The Dovecote and No.3 and 4 Manor Close). Given this close proximity, any vehicle movements along the access are likely to result in a level of noise and disturbance within these adjacent dwellings and their relatively small back gardens, which occupiers would be likely to find intrusive. Other neighbouring properties affected include, The Manor House nursing home, No.2 Manor Farm Close and No.2 and 3 Church Close, which equally enjoy a tranquil environment, free from vehicle noise and disturbance and the general level activity associated with a residential development.

- 5.41 The site is an unimproved field unused at present. No detail has been provided regarding the previous occupancy of the field, but essentially vehicle movements to the site would be limited. The proposal would result in permanent development, which would be likely to generate a permanent increase in vehicular movements. The location of the site is not advantageous so that future occupiers would not choose to own a vehicle(s). Whilst it is possible to partially mitigate some vehicle noise along the road way from the installation of acoustic fencing, this would not be completely mitigated and the general disturbance would be significant from the residential occupancy of the 'backland' site.
- 5.42 The access arrangement between and to the rear of existing neighbouring dwellings has been fully considered by Inspectors on recent dismissed appeal decisions within the district:
- (I) During the consideration of 1 No dwelling at 198 and 200 Woodstock Road, Yarnton, Oxfordshire, OX5 1PP (application reference 11/00029/F and appeal reference APP/C3105/A/11/2160109) the Inspector concluded that: *"I consider the noise and disturbance that would arise from either proposed arrangement would affect the quiet enjoyment of all the surrounding neighbours' private amenity areas and therefore harm the living conditions of the current and future occupants of all the neighbouring dwellings."*
 - (II) During the consideration of 1 No dwelling at 14 Charlbury Close, Kidlington, Oxfordshire, OX5 2BW (application reference 10/00584/OUT and appeal reference APP/C3105/A/10/2139847/WF) the Inspector concluded that: *"The access runs directly between the two existing dwellings, No's 14 and 16 Charlbury Close. Given this close proximity, however, any vehicle movements along the access are likely to result in a level of noise and disturbance within these adjacent dwellings and their relatively small back gardens, which occupiers would be likely to find intrusive. Any increase in the use of the access would increase the frequency of such disturbance. Whilst I acknowledge that present activities involve a level of usage of the access which would cause some disturbance, I consider these circumstances will not necessarily continue indefinitely. The proposal would result in a permanent development, which would be likely to generate a permanent increase in vehicular movements. In my view, the location of the site is not so advantageous that future occupiers would not choose to own a motor vehicle or vehicles. As such, rather than result in a reduction in noise and disturbance, I consider the proposal would perpetuate unsatisfactory conditions to the detriment of living conditions within adjacent residential properties."*
- 5.43 The above appeal cases represent 'backland' development for only a single house, not three as proposed and as such, the proposal would result in unsatisfactory conditions to the detriment of living conditions within adjacent residential properties through the introduction of increased vehicular activity in an otherwise quiet, tranquil 'backland' site and contrary to Policy ESD15 of the Cherwell Local Plan Part 1, saved Policies C30 and C31 of the Cherwell Local Plan 1996 and Government guidance contained within the NPPF.
- 5.44 It is considered that the siting of the dwellings in a similar form indicated would not result in the loss of amenity to any neighbouring property by virtue of overlooking, loss of privacy or outlook or creation of an overbearing effect.

Highways Safety

- 5.45 The vehicular access point as shown on the submission is considered to be acceptable in highway safety terms and no objection has been raised in respect to this or the amount of parking provision to serve the development, subject to necessary conditions.

Ecological Impact

- 5.46 Paragraph 109 of the NPPF notes that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 5.47 Paragraphs 192 and 193 of the NPPF further add that: *"The right information is crucial to good decision-taking, particularly where formal assessments are required (such as Habitats Regulations Assessment)... Local Planning Authorities should publish a list of their information requirements for applications, which should be proportionate to the nature and scale of development proposals. Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question."* One of these requirements is the submission of appropriate protected species surveys which shall be undertaken prior to determination of a planning application. The presence of a protected species is a material consideration when a planning authority is considering a development proposal. It is essential that the presence or otherwise of a protected species, and the extent to that they may be affected by the proposed development is established before the planning permission is granted, otherwise all relevant planning material considerations may not have been addressed in making the decision.
- 5.48 Paragraph 118 of the NPPF states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principle: *"If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused."* Policy ESD10 of the Cherwell Local Plan Part 1 echoes this.
- 5.49 The Council's Ecologist is satisfied that the work done to date with regard to ecology is sufficient. That said, further reports would be required in respect to the presence or otherwise of Great Crested Newts in nearby ponds on order to determine the mitigation required.
- 5.50 It is considered that three dwellings could be accommodated on the site without causing significant harm to the legally protected species and that the proposal accords with Policy ESD10 of the Cherwell Local Plan Part 1 and Government guidance contained within the NPPF.

Other Matters

- 5.51 The Arboricultural Officer is confident that a scheme could be proposed on this site without unduly affecting trees or vegetation surrounding the site including vegetation to the south of the site which contains shrubs and developing trees.
- 5.52 The Environmental Protection Officer has no objections in principle to the proposal. However, the Environmental Protection Officer has noted that a residential use is a sensitive land use and the future users would be vulnerable to contamination given the land is potentially contaminated. The Environmental Protection Officer has therefore requested that conditions to ensure that risks from land contamination to the

future users of the land and neighbouring land are minimised. These would be attached if the proposal were being recommended for approval.

- 5.53 Third parties have highlighted concerns in relation to foul and storm water drainage. In addition, the third parties have noted that there may be limitation on a regular and suitable clean water supply, as mains water pressure would be affected by the additional demand. However, Thames Water have raised no objections to this proposal.
- 5.54 Third parties have noted that the proposal would cause harm to the enjoyment of the footpaths, as the route would take the public footpath through a residential development. The indicative plan does not show the proposal affecting the footpath in such a way and the footpath continues to run through the field in this indicative plan.
- 5.55 Third parties have noted that the site is lower lying than neighbouring built up areas, with an adjacent field that is known to flood and they are concerned that drainage to and from the various ponds in the area could be impacted by the development and potentially exacerbate flooding. However, the site does not fall within a flood plain and it is considered that the proposal would not significantly impact upon the flooding risk for future occupants or neighbouring occupants.
- 5.56 A number of issues have been raised by third parties, but the following are not material planning considerations in this case:
- Land ownership issues;
 - Noise pollution from construction;
 - Impact upon internet speed;
 - No neighbourhood consultation was undertaken by the applicant.
- 5.57 Whilst it has been stated by the applicant's agent that the New Homes Bonus resulting from the development of three houses would provide funds to benefit the local community and that the occupiers of these proposed dwellings would contribute to the local economy through the use of services and facilities in the local area, this would not be sufficient to override the other identified interests of importance, which in weighing in the planning balance, would lead officers to form a different conclusion on the matter.
- 5.58 It is considered that the third party issues and concerns have been addressed in the preceding report and full comments are available via the Council's website.

Engagement

- 5.59 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. The applicant's agent was not contacted as the proposal is unacceptable in principle. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

6. Recommendation

Refusal, for the following reasons:

1. The proposal represents unsustainable development beyond the built up limits of Merton, which is substandard in terms of services and facilities, not well served by public transport and is reliant on the use of the private car. No case has been made for its consideration as a rural exceptions site or other essential undertaking. As the proposal cannot be justified on the basis of an

identified need in an unsustainable location, it represents inappropriate development, contrary to Policy Villages 1 of the Cherwell Local Plan Part 1, saved Policy H18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

2. The proposal represents development which encroaches into the open countryside and causes demonstrable harm to the setting and significance of the designated Heritage Assets, the Grade I listed St. Swithun's Church and the Grade II listed Manor House. The proposed development would also fail to maintain the rural character and appearance of the area and to conserve, enhance and respect the environment and historic settlement pattern by introducing an incongruous, prominent, urbanising and discordant built form of development into this rural setting, injurious to its character and appearance and would also risk further harm to the character of this area which could arise from the precedent that may set. The application is, therefore, contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan Part 1, saved Policies C28 and C33 of the Cherwell Local Plan 1996 and Government guidance contained in the National Planning Policy Framework.
3. The proposal would result in the residential development of land in an unsuitable 'backland' position served by an access way between and behind residential dwellings, which is out of keeping with and causes harm to the existing residential form and character of the area. Furthermore, the development would be detrimental to the amenities of the adjacent residential properties by reason of the introduction of increased vehicular activity in an otherwise quiet and tranquil environment. The proposal is therefore contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan Part 1, saved Policies C28, C30 and C31 of the Cherwell Local Plan 1996 and Government guidance contained within 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. The applicant's agent was not contacted as the proposal is unacceptable in principle. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.