

Site Address: Land North of The Green 15/02068/OUT and adj. Oak Farm Drive, Milcombe

Ward: Bloxham and Bodicote

District Councillor: Cllr Chris Heath and Cllr Lynda Thirzie Smart

Case Officer: Bob Duxbury **Recommendation:** Approval

Applicant: Trustees of the Estate of JW Tustian(deceased)

Application Description: Erection of 40 no. Dwellings with means of access to be assessed and all other matters reserved

Committee Referral : major application

Committee Date: 17 March 2016

1. Site Description and Proposed Development

- 1.1 The application site (which amounts to 1.43 hectares) is situated to the north of the main village street, and more specifically to the north of Nos 1-7 The Green and the adjacent Horse and Groom PH. The site lies to the east of Nos 2, 4, and 6 Oak Farm Close and 6, 8, and 10 Oak Farm Drive. The land is unused agricultural land which is bounded to the north by the embankment of the former Banbury to Chipping Norton railway line, which forms a linear dense tree planted feature on this side of the village. The site is separated from other residential development to the east by other open land used as horse paddocks. A public footpath crosses that land north to south
- 1.2 The proposal seeks consent for 40 dwellings. The application is accompanied by an illustrative plan showing the sole vehicular access taken from the existing field gate on Oak Farm Drive that was provided when that adjacent development was undertaken. The illustrative plan shows the houses served from a central roadway and two cul-de-sacs, with an area of public open space in the north east corner of the site. 35% affordable housing is proposed. The Design and Access statement indicates that it is the intention to a mix of 2, 3, 4 and 5 bedroomed houses.
- 1.3 The application is accompanied by a planning statement, transport statement, flood risk assessment, foul sewage and utilities report, arboricultural impact assessment, ecological surveys, a landscape and visual assessment and a desk-based archaeological assessment.
- 1.4 An addendum to the landscape and visual assessment has been submitted to address comments made by the Council's Landscape Officer.
- 1.5 A further iteration of the illustrative masterplan has been produced which attempts to address detailed issues concerning the hedgerow on the

eastern boundary, with a widened buffer on this side, the public open space/LAP, repositioned houses away from the western and southern boundaries to allow landscape mitigation

2. Application Publicity

2.1 The application has been advertised by way of neighbour letter, site notice and press notice. The final date for comment was the 18 December 2015

2.2 59 objections have been received from local residents raising the following subjects

- Inadequate sewerage facilities
- Lack of education facilities
- Lack of health facilities
- Poor access via Oak Farm Drive – alignment, width, on street parking, junction with main road and consequent risk to highway safety
- Exacerbating traffic flows through the village,
- Are these properties needed?
- Proposed development would be too dense
- Lack of parking
- Construction issues – alternative route needed
- Poor land drainage
- Previous construction compound on this land left drainage issues affecting Oak Farm Close – concern that this may be made worse by recent archaeological survey work and by the proposed development
- The village has poor services
- Poor public transport connections – especially relevant to affordable housing provision
- Ecology matters – reported sightings of woodpeckers/owls/bats
- Disturbance to existing residents from potential use of footpath
- Suggesting that there are better alternative sites around Milcombe
- Scale of development is too great
- Concern over the appearance and form of the development – is backland development appropriate
- Loss of visual amenity for surrounding residential properties and when seen across from Paradise Lane
- Development contradicts policy of concentrating development in the largest villages
- No significant economic benefit
- Impact upon the setting of Farnell Fields – a nearby listed building
- Premature pending Local Plan Pt 2
- Concern about status of “footpath” to rear of 7-11 The Green
- Would enlarge the village unacceptably, changing the character of the village

2.3 Four of the above letters raised no objections but concentrated on the issues associated with construction access/disturbance etc.

- 2.4 A petition signed by 119 residents of the village objects to the proposed development
- 2.5 A letter of objection has been received from solicitors acting for the owners of the public house , raising concerns on the following basis
- They consider that there is a risk that the operational activity of the public house could be compromised because of the possibility of complaints concerning noise, smell, etc., and that this in turn could lead to a licensing review which could affect the trading potential of the public house.
 - Approving this residential development would be contrary to Local Plan policy in that it would not support the operational activity of this existing business
 - The proposal is considered to be contrary to Local Plan policy BSC2 and will be in an unsustainable location.

3. Consultations

3.1 Milcombe Parish Council:

Milcombe Parish Council is strongly opposed to this most inappropriate and ill-conceived development and wishes to make the following observations:

1. The recent publication of the Annual Monitoring Report provides the latest housing figures for CDC, which shows the Council has exceeded its 5 year land supply i.e. **5.6 years**, for the period 2016 – 2021. This demonstrates that the proposed development of 40 dwellings in Milcombe is **totally unnecessary**.

2. Domestic Services

A sewerage system and treatment works were constructed in 1954/5, presumably driven by, and designed for, the significant proposed development in the subsequent decade, plus a pumped flow from South Newington. Apart from property connections, there has not been any upgrading of the system, apart from the removal of the treatment works, to date, despite a property increase of 75% in Milcombe alone. Over the last few years, problems, particularly to do with odour, have increased.

The potable water distribution system was also installed around 1955 and, we believe, no major upgrading has been carried out to date. For many years now, there have been numerous occurrences of poor quality water "at the tap", with regard to turbidity and odour.

The electricity supply system was installed about 1950. Like the rest of North Oxfordshire, there has been very little in terms of upgrading and power cuts, particularly during the winter, are commonplace.

3. Highways and Vehicular Access

All roads within the village curtilage are relatively narrow and access is restricted by a significant number of parked vehicles. In recent times the situation has been exacerbated by the increasing number of heavy vehicles using Main Road as a "rat run" to avoid South Newington and Chipping Norton. The likely outcome of this situation is an increase in the likelihood of

accidents, and noise nuisance, particularly during the night, for residents along New Road, Main Road and Wigginton Heath Road.

The vehicular access to the proposed development is of major concern. There are two considered alternatives: (1) Via The Green and (2) Extension of Oak Farm Drive. Access through The Green is prevented by a covenant set down at the time of construction of that development; therefore the only possible access is from Wigginton Heath Road into Oak Farm Drive. The matter of safe access into Wigginton Heath Road was first raised during the consideration of the Oak Farm planning application, when it was asserted by OCC Highways that Wigginton Heath Road had a minimum width of 5m, hence the road was adequate for the projected increase in traffic movements. Subsequent measurements showed that at 7 locations adjacent to the junction, the road width varied between 4.65m and 4.94m. The potential increase of nearly 140% of traffic movements into an already unsafe access junction is totally unacceptable.

4. Education

Milcombe totally relies on schooling provision outside the village i.e. Bloxham, Banbury, Adderbury, Deddington and Hook Norton and therefore dependant on "school transport". It is understood that Bloxham Primary is already "at capacity" and Warriner will be in a similar situation when the ongoing developments in Bloxham are completed. A similar situation exists in the other above referenced villages, so where do these additional children receive their education?

5. Health Services

A similar situation, to the above, exists with regard to doctor's surgeries and dental practises, many, outside of Banbury, having a full register.

6. Visual Impact

Contrary to a statement in Savills "Historic Environment Assessment", the visual impact on a significant listed building i.e. Farnell Fields, would be immense. Any consideration of adequate screening would be futile, due to the elevation of the proposed development site

7. CDC Local Plan

The size and extent of this proposed development would appear to be at odds with the CDC Local Plan. Within the Plan, Category A villages, which include Milcombe, were allocated a total of 750 dwellings. Due to current developments either started or granted, this figure has reduced to 276, which must limit potential development in the remaining villages to infill only, not a development of 40 dwellings!

A further letter was received from the Parish Council before the last Committee in which they said “should the Planning Committee be minded to approve the application at its meeting on 18 February 2016, the Parish Council wishes to make the following comment:

Milcombe Parish Council would wish to request additional Section 106 monies, from the developer, to cover much needed improvements to the recreational activities in our ever growing village.

These improvements would include extending the main play and recreational area, and the facilities within it, and significant improvements to the Village Hall.

There is also the possibility that funding for the Mobile Library service will be reduced/lost, so contributions would also be sought to maintain this

Cherwell District Council Consultees

3.2 Housing Officer

This outline application for 40 units correctly states that there will be a requirement for 35% affordable housing provision to be made on site (14 units).

There should be a tenure split 70/30 affordable rented/ shared ownership (or some other form of intermediate housing agreed with the Council). This equates to 10 affordable rented units (including a bungalow) and four shared ownership units.

The affordable homes should meet the HCA's Design and Quality Standards including the necessary HQI requirements. 50% of the rented element should also meet the lifetime homes standards and the bungalow is to meet full wheelchair standards.

It is expected that the affordable rented units be tenure blind in their appearance, this includes in terms of their parking arrangements which should be in-curtilage wherever possible.

There is expected to be a range of house types made available for the affordable housing provision (including one bungalow), the detail of which will be determined at reserved matter stage should this outline application be approved.

A suggested mix is as follows:

Affordable Rented Shared Ownership

2 x 3b5p Houses 4 x 2p4p Houses

3 x 2b4p Houses

1 x 2b4p Bungalow

4 x 1b2p Houses/ Apartments

The affordable housing should be transferred to an RP which is agreed with the Council.

3.3 Planning Policy: The Planning Policy Team's main observations are:

- Milcombe is a Category A village, one of the more sustainable villages in the district.
- Policy Villages 2 of the adopted Local Plan 2011-2031 provides for an

additional 750 dwellings at Category A villages (2014-2031) (in addition to the rural allowance for small site 'windfalls' and planning permissions as at 31 March 2014).

- From the 2015 AMR it can be determined that a total supply of 470 dwellings is presently expected from non-strategic sites (10 or more dwellings) at Category A villages at 31 March 2015.
- This leaves only some 280 left to be identified to meet the Policy Villages 2 requirement through to 2031.
- Sites will be identified through the preparation of Neighbourhood Plans where applicable, Local Plan Part 2, and through the determination of applications for planning permission.
- There has not been a development at Milcombe that has contributed to the allocation of 750 dwellings in the rural areas. This proposal would assist in meeting Policy Villages 2 requirements.
- Since 2011, there has been 33 dwellings completed (29 at Oak Farm) and at 31 March 2015 there are 3 dwellings that have planning permission but not yet built. Oak Farm was an identified site in the Non-Statutory Cherwell Local Plan 2011 (approved in 2004).
- The site is included in the SHLAA Update 2014 (ref. MI018). The SHLAA concluded that *"This is considered to be a potentially developable site providing for about 40 dwellings in the next five year period as a continuation of the on-going Oak Farm development"*. The site assessment recognised that development on the site would lead to some negative impacts on the openness of the land in this area and the character of this part of the village however it was considered that these could be mitigated against through layout and design. The SHLAA states that the site would be an appropriate location for residential development in principle provided satisfactory access/egress could be secured and good links are provided to the rest of the village.
- The proposed development would be in scale to the adjacent development to the west which achieved 30 dwellings per hectare.
- Milcombe has a population of 613 people with 266 dwellings (2011 Census).
- The district has a 5.3 year housing land supply for the current period 2015- 2020 and a 5.6 year supply for the next five year period (2016-2021) commencing on 1 April 2016.
- There is no pressing need for additional land release at this time at a village that is being provided with a significant amount of new housing.

The recommendation is therefore - There is no Planning Policy objection raised. The provision of some additional housing at Milcombe to meet Policy Villages 2 requirements accords with the Development Plan. Milcombe is a sustainable village with a food shop, a public house, recreational facilities and a village/community hall, and is located approximately 1.5 miles away from Bloxham where a wider range of services and facilities are available. A judgement on the acceptability of the precise number of dwellings proposed will need to be made in this context having regard to the merits of providing housing (including affordable homes) and potential impacts such as those on the character, appearance and landscape setting of this part of the village. Milcombe is one of the smaller Category A villages in terms of population and has recently

received some development. Therefore careful consideration is needed of the impact on local infrastructure having regard to comments of service providers such as the County Council.

3.4 **Landscape Officer:**

LVIA

I confirm the site is contained, both visually and physically by the dismantled railway to the north and housing to the south.

I agree with the findings of the LVIA in respect of Landscape Effect(5.2.1): a **Minor Adverse** effect. However with the approval of the planning consent the paddock immediately east of the site (the land between developments) will be put a risk of infill development. This should not be allowed in order to retain the open landscape character, amenity and setting to the older buildings.

I generally agree with the results of the LVIA. However, an additional visual appraisal should be carried out in respect of dwellings to the east of the paddock: Barlow Close and Paradise Lane which I judge to indicate a **moderate adverse** effect that must be mitigated successfully with a landscaped buffer that includes the eastern boundary hedgerow. The buffer is to be planted with native trees with allowance for a 4 m buffer, the road, front gardens to ensure the trees are of sufficient distance to prevent structural damage (defer to NHBC guidelines and structural engineer) and reduce shade and light loss to windows. The landscape buffer to prevent further encroaching development into this setting.

Existing Trees

An 'up-front' tree and hedgerow survey under BS5837 is necessary to inform the design layout – the access road is very close the eastern boundary hedgerow; it is obvious the RPA has been considering with the position of this road. It is important the retained the hedgerow buffer for visual receptors on the PRow route code 298/3/10. Therefore a hedgerow retention condition with a minimum maintenance height of 3 m. All approved work to be done outside the bird nesting season. Please note that a shallow ditch exists along the hedgerow, which perhaps, as the land falls towards the proposed balancing pond, could provide development run-off/attenuation to this pond.

Play

The central green space in PREAPP's concept masterplan, is which is appropriate location for a LAP, is not evident in the latest masterplan. I recommend that the layout is revised to accommodate as LAP with its associated landscape buffer– to be designed in accordance with the design standards of our current Planning Obligations SPD.

Landscape Mitigation

The proposed intervening hedgerow between proposed and existing boundaries on west and southern boundaries is acceptable in principle, however the close proximity of dwellings near Oak Farm Drive, the dwelling and garages to Oak Farm are problematic in terms of visual impact for adjacent residencies and encroaching hedgerow on building foundations that may be deemed a nuisance by residents. If these building can be relocated further from the site boundaries the will be reduce impacts and allow enough

space for boundary mitigation planting (defer the NHBC and structural engineer)

Adoptable OCC highway should be designed to accommodate street trees on the southern and eastern side of the street with sufficient grass verge width for well specified tree pits.

Conditions

- Play provision and informal open space
- Hedgerow retention
- Tree survey and root protection (if not already provided).

3.5. **Community Development**

Seeks a contribution towards the improvement of the existing village hall and towards community development

3.6 **Public Art**

There will be a requirement for Public art which addresses the integration of this development with the village and existing community. This may be a functional artwork but will involve community participation

- 3.7 **Business Support Unit** – It is estimated that this development of 40 houses has the potential to attract New Homes Bonus of approximately £291,775 over 6 years under current arrangements for the Council, with an additional sum paid of £280 per affordable home

Oxfordshire County Council Consultees

3.7 **Transport**

Raises no objection subject a legal agreement requiring a contribution towards the enhancement of buses serving Milcombe and to the improvement of the bus stop at The Green and a Section 278 agreement re works on the highway and to conditions

Detailed comments:

Vehicular Access

Extension of Oak Farm Drive shall form the only vehicular access on site. Oak Farm Drive is 4.8m wide flanked by 1.5m footways either sides and is fronted by dwellings and a parking layby.

Visibility at the access is not a concern, Oak Farm Drive being extended to provide a logical access to the development site. However, access treatment may be required to prevent any parking of vehicles in the vicinity of the proposed access.

Pedestrian Access

It is proposed that the most direct pedestrian access to the site shall be achieved via the existing public rights of way, in the south east corner of the development where the developer will provide improvements. Currently PROW 3 (298/3) involves a stepped access which for compliance with all users should be improved to a ramped access. This is something that the Countryside Access team would be keen to take up if planning permission was granted as it would improve accessibility and provide a valuable link between the development, the countryside and Milcombe village via Main Road.

In addition to this any future layout within the site must show a comprehensive pedestrian network, in the main with footways provided on both sides of the carriageway.

Traffic

In terms of traffic activity (trip generation) it is evident that there will be a minor increase in traffic movements in the morning and in the evening during the commuter peak hour from the development proposal. To assess the trip generation of the development an analysis of data using the latest TRICS database was undertaken.

Using TRICS data it is estimated within the applicants' Transport Statement that around 21 vehicles in the morning and 22 vehicles in the evening peak two way flows (in the busy hours) will be generated by the development. The Highway Authority concurs with these figures. To conclude the associated trip generation traffic is considered negligible given the numbers it will generate i.e. one additional vehicle every 3 minutes from/to the development site in the peak hours.

The highway is predicted to operate safely as a result of development as such small changes in traffic flow would not result in a significant material change in highway operation and as such there are no issues with the amount of traffic generated by the development.

In terms of personal injury traffic accidents in the area there are no significant correlations in the timing, location, frequency or circumstances of the personal injury accidents that were apparent at the nearby junctions including the proposed site access frontage with the highway.

Adoption of streets

It is noted where development involves the construction of residential estate roads/pavements it is a requirement of developers to enter into an agreement with the highway authority under section 38 of the Highways Act 1980, under which they themselves will construct the streets to the satisfaction of the highway authority in accordance with current specification. This must be conditioned accordingly.

Layout

The final details will be subject to OCC perusal when the reserved matters/detailed planning application is submitted.

3.8 Education

No objection subject to a legal agreement to secure appropriate financial contributions for improvement of primary school provision at Hook Norton (£177,577)

Detailed Comments:

Primary:

Bloxham Primary School has been expanded to 2 form entry and is full. Hook Norton CE Primary School is currently undergoing expansion to 1.5 form entry, to meet the needs of planned and proposed housing growth in the area, and to reduce pressure on Bloxham Primary School, with which it shares an overlapping catchment. All relevant housing developments in the area would be expected to contribute towards the cost of this expansion.

The phased capital project which is ongoing at Hook Norton CE Primary School has a total cost of £1.33m and, when complete, will deliver an additional 105 primary pupil places. This is a cost of £12,666 per pupil place.

Secondary:

Expansion of secondary school capacity in the area would be necessary as a direct result of housing development. This area feeds to The Warriner School, which is regularly oversubscribed, and effectively full.

Paragraph 72 of the NPPF makes clear that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities, and that great weight should be given to the need to expand schools to maintain, or widen choice in education. Without expansion of The Warriner School housing development would adversely impact on the operation of parental preference and result in a loss of amenity to young people already living in the area, who would be less likely to secure a place at their first preference school as a direct result. As such it would go against the intention of NPPF para 72 by reducing the choice of school places available to meet the needs of existing and new communities. If The Warriner School is not expanded, children who would otherwise have attended the school would be displaced to other schools in nearby Banbury. These schools currently have spare places, but these places will be filled as a result of the population growth which is already evident in the local primary schools. Secondary school capacity in Banbury will need to be expanded as these higher pupil numbers feed through, and therefore should the schools also be required to accommodate growth as a result of housing development in this area, the scale of expansion would be greater as a consequence.

Expansion of secondary school capacity at both The Warriner School and at schools in Banbury is therefore necessary to ensure the needs of the current and future populations can be met, and to ensure the council can meet its statutory duty to ensure sufficient school places.

Special:

Across Oxfordshire 1.11% of pupils are taught in special schools. There is an insufficiency of capacity for SEN provision across Oxfordshire and within Banbury itself to meet the needs of the growing population. Demands arising from further residential development will need to be addressed.

For this development, the nearest such establishment is Frank Wise School (in Banbury) where the council is delivering a £1.8m project to replace 24 places currently provided in temporary classrooms as well as provide 8 additional places for growth. Grant funding of £963k has been secured towards this project, leaving a balance of £837k for the county council to fund from S106 and other sources. Given the scale of growth proposed in the revised Cherwell Local Plan, further expansion of the school beyond that currently planned is expected in the longer term; the scale and timing of this will be reviewed after confirmation of the Local Plan.

The area is also served by a number of facilities which provide county-wide specialist provision. These include (as of September 2014) the Endeavour Academy, Oxford, a new 20-place autism school (including 12 residential places) with an estimated capital cost of £4.3m.

3.9 **Other matters**

OCC seek a small contribution towards book stock for Adderbury library, but do not seek further infrastructure contributions due to Regulation 123 of the CIL Regs..

3.10 **Thames Water**

Waste Comments

Following initial investigation, Thames Water has identified an inability of the existing waste water infrastructure to accommodate the needs of this application. Should the Local Planning Authority look to approve the application, Thames Water would like the following 'Grampian Style' condition imposed. "Development shall not commence until a drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved by, the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed". Reason - The development may lead to sewage flooding; to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community. Should the Local Planning Authority consider the above recommendation is inappropriate or are unable to include it in the decision notice, it is important that the Local Planning Authority liaises with Thames Water Development Control Department (telephone 0203 577 9998) prior to the Planning Application approval.

Water Comments

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

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Cherwell Local Plan 2011-2031 Part 1:

The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015.

The Plan was the subject of an independent examination conducted by an Inspector appointed by the Secretary of State. The Inspector's report was published on 12th June 2015 and the recommended main modifications required to make the Plan sound have been included in the adopted plan.

The Plan provides the strategic planning policy framework and sets out strategic site allocations for the District to 2031. Now adopted, the Plan forms part of the statutory Development Plan and the basis for decisions on land use planning affecting Cherwell District.

The Local Plan 2011-2031 – Part 1 replaces a number of the saved policies of the 1996 adopted Cherwell Local Plan. Those saved policies of the 1996 adopted Cherwell Local Plan which are retained remain part of the Development Plan. These are set out in Appendix 7 of the Local Plan 2011-2031.

Planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The following policies are considered to be relevant:-

Policy PSD1	Presumption in Favour of Sustainable Development
Policy BSC1	District wide Housing distribution
Policy BSC2	The effective and efficient use of land
Policy BSC3	Affordable Housing
Policy BSD4	Housing Mix
Policy BSC10	Open Space, Outdoor Sport and Recreation Provision
Policy ESD1	Mitigating and adapting to climate change
Policy ESD2	Energy hierarchy
Policy ESD3	Sustainable Construction
Policy ESD7	Sustainable Drainage Systems
Policy ESD13	Local Landscape Protection and Enhancement
Policy ESD15	Character of the built and historic environment
Policy Villages 1	Village Categorisation
Policy Villages 2	Distributing Growth across the rural areas

Adopted Cherwell Local Plan (Saved Policies)

H18	New dwellings in the countryside
C8	Sporadic development in open countryside
C28	Layout, design and external appearance of new development
C30	Design of new residential development

4.2 Other Material Policy and Guidance

National Planning Policy Framework

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

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

Planning Practice Guidance

Non-Statutory Cherwell Local Plan 2011

Whilst some policies within the plan may remain to be material considerations, other strategic policies have in effect been superseded by those in the Submission Local Plan (October 2014). The main relevant policies to consider are as follows:-

Policy H19	New dwellings in the countryside
Policy EN30	Sporadic development in the countryside
Policy EN34	Conserve and enhance the character and appearance of the landscape
Policy R4	Protection and enhancement of existing public rights of way

5. Appraisal

5.1 The key issues for consideration in this application are:

- Planning Policy and the Principle of Development
- Five Year Housing Land Supply
- Design
- Landscape impact
- Ecology
- Flooding and Drainage
- Transport Assessment and Access
- Heritage matters
- Planning Obligation

Planning Policy and Principle of Development

5.3 The Development Plan for Cherwell District comprises the recently adopted Cherwell Local Plan 2011-2031 and the saved policies in the Adopted Cherwell local Plan 1996. Section 70(2) of the Town and Country Planning Act 1990 provides that in dealing with applications for planning permission the Local Planning Authority shall have regard to the provisions of the development plan, so far as is material to the application, and to any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purposes of any determination to be made under the Planning Acts, the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

5.4 The site in question is not allocated for development in any part of the development plan, and it does fall outside of the built up area of the settlement..

5.5 Policy Villages 1 of the recently adopted Cherwell Local Plan 2011-2031 designates Milcombe as a Category A village, and therefore one of the Districts most sustainable settlements based on criteria such as population, size, range of services and facilities and access to public transport. Policy Villages 1 replaced Policy H13 of the 1996 Local Plan, but broadly follows the same ethos, in principally allowing minor development within the confines of the settlement, infilling and conversions. Policy Villages 2 seeks to distribute the amount of growth that can be expected within these villages, although how the numbers will be distributed is not specified as precise allocations within each village may be set out in Local Plan Part Two or in a Local Neighbourhoods Development Plan Documents.

5.6 Quite clearly this development fails to comply with the new Policy insofar as the site does not lie within the built up limits of the settlement and in doing so also potentially conflicts with Policy ESD13 of the Local Plan that seeks to

protect and enhance local landscapes. However Paragraph 49 of the NPPF states 'housing applications should be considered in the context of a presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable sites – see below for the Council's current position..

5.7 The NPPF sets out the economic, social and environmental roles of planning in seeking to achieve sustainable development: contributing to building a strong, responsive and competitive economy; supporting strong, vibrant and healthy communities; and contributing to protecting and enhancing our natural, built and historic environment (paragraph 7). It also provides (paragraph 17) a set of core planning principles which amongst other things require planning to:

- Be genuinely plan led, empowering local people to shape their surroundings and to provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency
- Proactively drive and support sustainable economic development
- Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- Support the transition to a low carbon future in a changing climate
- Encourage the effective use of land by re-using land that has been previously developed
- Promote mixed use developments
- Conserve heritage assets in a manner appropriate to their significance
- Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus significant developments in locations which are, or can be made sustainable
- Deliver sufficient community and cultural facilities and services to meet local needs

5.8 The NPPF at paragraph 14 states 'At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking'....For decision taking this means:

- Approving development proposals that accord with the development plan without delay; and
- Where the development plan is absent, silent or relevant policies are out of date, granting permission unless;
- Any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, or
- Specific policies in this framework indicate development should be restricted

5.9 Whilst it is acknowledged that Milcombe is one of the more sustainable villages, this does not necessarily mean that the proposal itself constitutes sustainable development. The NPPF sets out three dimensions to sustainable development, those being economic, social and environmental which are considered below ,In an appeal at Bourne Lane, Hook Norton an Inspector concluded that whilst the village does not have a piped gas supply and that

electricity supply and broadband connectivity can be poor, that these did not alter his overall assessment of the range of facilities available within the village and that it was sustainable.

- 5.10 In terms of the environmental dimension, the development must contribute to the protection and enhancement of the natural, built and historic environment by improving biodiversity. Whilst this is a green field site and its loss will cause harm to the character and appearance of the countryside, this would be limited to short-medium distance views within the immediate vicinity of the site. See below for further comments.

Five year land supply

- 5.11 The Council recently published its up to date Annual Monitoring Report (AMR). In that document the Council declared that it has a 5.3 year housing land supply for the current 2015-2020 period, and a 5.6 year supply for the next 5-year period (2016-2021) commencing on 1 April 2016.
- 5.12 Policy Villages 2 provides for an additional 750 dwellings at Category A villages. From the AMR it can be determined that a supply of 470 houses is expected from non-strategic sites (sites of 10 and more), leaving only 280 houses left to be identified to meet the Policy Villages 2 requirement through to 2031. Sites will be identified through the preparation of Neighbourhood Plans where applicable, Local Plan Part 2 and through the determination of applications for planning permission. Milcombe has seen 29 dwellings being built between 2011 and 2015.. This proposal would assist in meeting Policy Villages 2 requirements
- 5.13 Paragraph 14 of the NPPF makes it clear that there is a presumption in favour of sustainable development and that permission should be granted unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against policies in the Framework taken as a whole. There remains a need to undertake a balancing exercise to examine any adverse impacts of a development that would significantly and demonstrably outweigh the benefits of it and also the harm that would be caused by a particular scheme in order to see whether it can be justified. In carrying out the balancing exercise it is, therefore, necessary to take into account policies in the development plan as well as those in the Framework. It is also necessary to recognise that Section 38 of the Act continues to require decisions to be made in accordance with the development plan and the Framework highlights the importance of the plan led system as a whole. The identified issues of relevance are identified and considered below. I return to the issue of the balanced judgement at the end of the report.
- 5.14 Given the amount of development that has already been committed to take place in the rural areas, and in the context of the Council having an up-to-date 5 year housing land supply, it is important to consider whether allowing this site to be released for housing would undermine the overall strategy of the Local Plan to direct housing to the most sustainable locations in the district. In particular concerns have been raised about the quantum of development proposed at Milcombe

- 5.15 Government guidance and appeal decisions are clear that being able to demonstrate a 5 year housing land supply is not itself a reason to refuse planning permission, and proposals must be considered in the context of the presumption in favour of sustainable development contained in the NPPF. Therefore provided the proposal does not conflict with any of the Council's adopted development plan policies, including the criteria of Policy Villages 2, on balance the proposal is considered appropriate in sustainability terms and would not undermine the overall housing strategy of the recently adopted Cherwell Local Plan Part 1.

Design & Layout

- 5.16 The application is an outline scheme and so the submitted layout plan is illustrative. The proposal is for 40 houses. The masterplan shows an east-west continuation of Oak Farm Drive with short cul-de sacs off to each side. One set of houses can be set back and face towards the eastern boundary allowing a softened edge to the retained area of agricultural land to the east. The site is of adequate size, and the density is low enough to allow adequate stand-off from the boundaries with adjacent residential properties
- 5.17 An area of informal open space is shown in the north eastern corner of the site. A surface water attenuation feature is shown as likely to be situated within this space.

Landscape Impact

- 5.18 The criteria listed under Policy Villages 2 include "whether significant adverse impact on heritage or wildlife assets could be avoided...whether development would contribute in enhancing the built environment (and) whether significant adverse landscape impacts could be avoided
- 5.19 The application site lies beyond the built up limits of the village in an area of open countryside. Policy ESD13 of Cherwell Local Plan 2011-2031 seeks to resist development if it would result in demonstrable harm to the topography and character of the landscape but also to secure appropriate mitigation where damage to local landscape character cannot be avoided.
- 5.20 Paragraph 113 of the NPPF states that Local Planning Authorities should set criteria based policies against which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. Distinctions should be made between the hierarchy of internal, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution they make to wider ecological works.
- 5.21 The application site, like the adjoining land under development, is not within any locally or nationally designated landscapes. .

5.22 The application is accompanied by a landscape and visual assessment. This document identifies 3 viewpoints; to the north on the hillside on a public footpath; on a footpath to the south of the village, and closer to the site where the footpath emerges south of the former railway line. At para 3.4 above the Council's Landscape Officer concludes that the proposal would only have at the worst only a minor adverse impact upon the landscape, albeit that a further viewpoint study has been requested (from the east on Paradise Lane). This will be dealt with at Committee. From the north the intervening vegetation provides a screen to the proposed houses, and this provides an enclosure of the land from the wider landscape. Overall it is considered that the degree of harm is relatively low and is tolerable

5.23 In response to Landscape Officers comments at 3.4 above A further visual appraisal has been undertaken of the impact of the scheme when viewed from the east. This reports that

The following describes the identified visual effects to the visual receptors represented by viewpoint location 4.

Viewpoint 4: *The viewpoint is representative of the users of the local highway, a minor road leading to a cul de sac. The speed of travel on the highway would be low. The viewpoint is also in close proximity to single storey residential properties, with large front gardens with boundary vegetation. Consequently the sensitivity of the receptor is considered to be **Medium**. It is considered that there would be a **Medium** magnitude of visual change from this location. This is due to the distance from the proposed development, the similar appearance in builtform in terms of scale, and character to that of the existing housing at Oak Farm Drive and residential properties in the south, presence of the overhead lines as a visual detractor (not shown in the photograph), the angle of view on the horizon susceptible to change by the viewer and the presence of intervening vegetation which provides partial screening in the middle distance.*

*It is considered that there would be a **Moderate Adverse** visual effect on Viewpoint 4 and the immediate surroundings. The degree of visual effect would decline over time as existing and proposed tree and shrub planting increase in size providing partial screening in the middle distance to views from the east. Over time it is considered the effects would reduce to **Moderate/Minor Adverse***

They conclude by the following comments

From desktop study and fieldwork we find the proposed residential development would have a moderate/minor adverse effect on views from the east near Paradise Lane, following plant establishment over a period of 10 years. The proposed development proposes to retain the existing boundary vegetation which would be protected during construction and enhanced by additional planting of native trees and shrubs. Following guidance provided by Cherwell Landscape Officer, further consideration would be provided during the detailed design process of the Reserved Matters Application in the event of a successful Outline Application to creation of a buffer to existing boundaries to provide adequate protection with further planting to assist in greening of the development. Further planting would occur within the development by use of tree planting within areas of public open space, the street and also within gardens of the individual properties. This new planting will assist in greening of the existing settlement edge of the Oak Farm Drive

housing development, already completed, to views to the east. The planting would enhance the aesthetic of the local environment and assist in enhancement of local biodiversity and nature conservation interests

5.24 In consideration of the latest LVIA The Landscape Officer comments I would be happy to support the LVIA judgement for VP4 (a Moderate/Minor Adverse effect over time) if the illustrative masterplan indicated sufficient depth of landscape buffer to the eastern boundary. It does not. The 4 m wide buffer is for a reason. The proposed trees appear to be located very close to, or within the access road, and it would be therefore, difficult for these trees to survive, with insufficient soil volume to aid establishment. The 4 m wide buffer allow for the prescribed number a trees to develop and provide the necessary level of landscape mitigation over time.

Furthermore the layout ignores the existing trees adjacent to the housing on this boundary; trees that must be subject to a BS5837 survey (existing hedgerows to be included) with root protection zones, with protective fencing during site activation/clearance and construction. This survey is required at the earliest possible opportunity in order to establish a design constraint and also inform the design layout. The LAP requirement (location/connectivity) within the layout is an outstanding matter. The illustrative masterplan does not currently show a LAP.

(Development Services Managers note: on an outline application these matters can be dealt with by **additional conditions** – to be agreed with the Chairman)

Ecology

- 5.24 The application is accompanied by an Ecological Appraisal , a great crested newt and reptile survey. The appraisal confirms that the site is not within or adjacent to any statutory or non-statutory wildlife sites and that the proposed development would not cause any significant impacts to such sites.
- 5.25 The Ecological appraisal considers the potential impact on a number of species, including bats, badgers, nesting birds, reptiles and amphibians.
- 5.26 In respect of these species, evidence was found of badger foraging, but no setts or main frequently used tracks. There was no evidence of bat roosts and only a limited level of bat activity. The conclusions of the submitted report a corridor of habiat along the northern and eastern boundasry should be conserved and that subject to further survey work and mitigation no adverse impact upon protected species is anticipated.
- 5.27 The NPPF – Conserving and Enhancing the Natural Environment, requires at paragraph 109, that, 'the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the overall decline in biodiversity, including establishing coherent ecological works that are more resilient to current and future pressures.
- 5.28 Section 40 of the Natural Environment and Communities Act 2006 (NERC 2006) states that 'every public authority must in exercising its functions, have regard to the purpose of conserving (including restoring/enhancing) biodiversity and: 'local Planning Authorities must also have regard to the requirements of the EC Habitats Directive when determining an application

where European Protected Species are affected, as prescribed in Regulation 9(5) of the Conservation Regulations 2010, which states that a 'competent authority' in exercising their functions, must have regard to the requirement of the Habitats Directive within the whole territory of the Member States to prohibit the deterioration or destruction of their breeding sites or resting places'.

- 5.29 Under Regulation 41 of the conservation Regulations 2010 it is a criminal offence to damage or destroy a breeding site or resting place, but under Regulation 53 of the Conservation Regulations 2010, licenses from Natural England for certain purposes can be granted to allow otherwise unlawful activities to proceed when offences are likely to be committed, but only if 3 strict derogation tests are met:-
1. is the development needed for public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature (development)
 2. there is a satisfactory alternative
 3. is there adequate mitigation being provided to maintain the favourable conservation status of the population of the species
- 5.30 Therefore where planning permission is required and protected species are likely to be found present at the site, or surrounding area, Regulation 53 of the Conservation of Habitats and Species Regulations 2010 provides that Local Planning Authorities must have regard to the requirements of the Habitats Directive as far as they may be affected by the exercise of those functions and also the derogation requirements might be met.
- 5.31 The Council's Ecologist is assessing the Ecological Assessment which has been submitted with the application and her comments will be reported

Flooding and Drainage

- 5.32 The site lies within Flood Zone 1 (low risk). A Flood risk assessment has nevertheless been undertaken by the applicants. AS the site is in Zone 1 redevelopment of the site for residential development is not precluded. Surface water discharge from the site can be discharged to the existing ditch to the north-east of the site, and SUDS can be used to limit this post development discharge to green field run off rates and to provide storage for a 1:100 storm including suitable allowance for climate change impacts.

Transport

- 5.33 The proposal indicates that all vehicular access is proposed from the Oak Farm Drive access onto the land. The application is accompanied by a transport statement. This concludes that the predicted traffic flows from a development of the size proposed can be accommodated via this route of access, and the that the peak hour and predicted daily rates will make no discernible difference to the traffic flows on the wider network.
- 5.34 It is noticeable that many of the negative comments concerning the proposal concern the inadequacy of Oak Farm Drive and its junction with the Wigginton Heath road. OCC were requested to reflect upon these comments. They have confirmed that they retain their position that they have no objections to the scheme

- 5.35 Pedestrian access to the site is obtainable not just via the vehicular access route but can also be augmented by connection to the existing public footpath which connects to the main village street, so connectivity is suitable.
- 5.36 Milcombe has a bus service, the 488 Chipping Norton to Banbury service. This largely commercial service is unlikely to be affected by changes in bus subsidies. The village is therefore sustainable in transport terms. OCC seek a contribution towards the support of the bus service and the improvement of the nearby bus stop

Heritage Issues

- 5.37 Milcombe does not have a Conservation Area. The nearest designated heritage asset is the Grade 2 listed house known as Farnell Fields situated off Paradise Lane. Whilst it will be possible to see the proposed development from that building and its grounds, it is not considered that its setting will be detrimentally affected due to the distance between them – a minimum of approx. 120 metres.
- 5.38 An archaeological evaluation has been submitted and very few finds were made. No comments have been received from the County Archaeologist.

Planning Obligations

- 5.39 The proposal generates a need for infrastructure and other contributions to be secured through a planning obligation, to enable the development to proceed. The draft Supplementary Planning Document (SPD) relating to the requirements was considered by the Council's Executive in May 2011 and was approved as interim guidance for development control purposes.
- 5.40 New development often creates a need for additional infrastructure or improved community services and facilities, without which there could be a detrimental effect on local amenity and the quality of the environment. National Planning Policy sets out the principle that applicants may reasonably be expected to provide, pay for, or contribute towards the cost of all or part of the additional infrastructure/services. Obligations are the mechanism used to secure these measures.
- 5.41 In respect of planning obligations, the NPPF advises at paragraph 204 that they should be sought where they meet all of the following tests:
- necessary to make development acceptable in planning terms
 - directly related to the development; and
 - fairly and reasonably related in kind and scale to the development
- 5.42 Having regard to the above, the Heads of terms relating to the additional development would include the following:-

CDC Contributions

- Provision of affordable housing
- Provision of on-site informal open space/play provision
- Contribution to sports provision

- 5.43 OCC seek infrastructure contributions to the improvement of primary school provision and for bus service support/ bus stop improvement

Engagement

- 5.44 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

Conclusion

- 5.45 Whilst the Council are currently able to demonstrate a five year supply of housing sites, this does not preclude the ability to approve dwellings outside of the village confines and an individual judgement needs to be made as to whether the benefits arising outweigh the harm. The NPPF at paragraph 14 sets out the presumption in favour of sustainable development at the heart of decision taking within the planning system.

- 5.46 In accordance with paragraph 14 of the NPPF, the adverse impacts of the proposed development do not outweigh the benefits and so there should be a presumption in favour of sustainable development.

- 5.47 The proposal is appropriate to be considered under Policy Villages 2 of the Cherwell Local Plan and the quantum and location of development proposed is considered to be consistent with the overall housing strategy of the Local Plan. The proposal would deliver social and economic benefits with the provision of new housing, including a policy-compliant on-site affordable housing contribution, and would contribute to meeting rural housing needs in the District. There would be no significant adverse harm to the visual amenities of the area and no other significant or unacceptable environmental harm has been identified. The proposal is considered acceptable in highway safety and access terms.

- 5.48 All-in-all the benefits of the proposal, which is considered to comply with the Council's adopted Development Plan policy, outweigh any harm and so the proposal is considered to be sustainable development within the meaning of the Framework

6. Recommendation

Approval, subject to:

- a) The applicants entering into an appropriate legal agreement to the satisfaction of the District Council to secure financial contributions as outlined in paragraph 5.41 and 5.42,
- b) The comments of the Council's ecology officer
- c) the following conditions:

1. No development shall commence until full details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") of this approved development have been submitted to and approved in writing by the local planning authority and the development shall be carried out as approved.

Reason - This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 4 of the Town and Country Planning (General Development Procedure) Order 2010 (as amended).

2. In the case of the reserved matters, a valid application for approval shall be made not later than the expiration of **one** year beginning with the date of this permission.

Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 4 of the Town and Country Planning (General Development Procedure) Order 2010 (as amended).

3. The development to which this permission relates shall be begun not later than the expiration of **one** year from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last reserved matters to be approved.

Reason - This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 4 of the Town and Country Planning (General Development Procedure) Order 2010 (as amended).

4. The development hereby permitted shall comprise of no more than 40 dwellings and shall be carried out in general accordance with the submitted design and access statement and those plans approved as part of the reserved matters applications.

Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

5. Prior to the commencement of the development, a plan showing the details of the finished floor levels of the proposed dwellings in relation to existing ground levels on the site shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in

accordance with the approved details.

Reason – To ensure that the proposed development is in scale and harmony with its neighbours and surroundings and to comply with Policy C28 of the Adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework

6. Prior to the commencement of the development hereby permitted, a detailed scheme for the surface water and foul sewage drainage of the development shall be submitted to and approved in writing by the Local Planning Authority. The approved surface water drainage scheme shall be carried out prior to commencement of any building works on the site and the approved foul sewage drainage scheme shall be implemented prior to the first occupation of any building to which this scheme relates. All drainage works shall be laid out and constructed in accordance with the Water Authorities Associations current edition 'sewers for adoption'

Reason – To ensure that the development is served by proper arrangements for the disposal of surface/foul sewage, to comply with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance within the National Planning Policy Framework

7. Prior to the commencement of the development hereby approved, full details of the means of vehicular access between the land and the highway, including position, layout, construction and drainage 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.

Reason - In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework.

8. Prior to the commencement of the development hereby approved, full details of pedestrian footpaths between the development and Main Road, and pedestrian access linking to the adjacent PROW's to the north 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.

Reason - In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework.

9. Prior to the first occupation of any of the dwellings hereby approved, all of the estate roads and footpaths (except for the final surfacing thereof) shall be laid out, constructed, lit and drained in accordance with Oxfordshire County Council's 'Conditions and Specifications for the Construction of Roads' and its subsequent amendments.

Reason - In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Government guidance contained within the National Planning Policy

Framework

10. Prior to the commencement of the development hereby approved, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions and in accordance with the submitted Stage 1 Arboricultural Report shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS

Reason – To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

11. Prior to the commencement of the development hereby approved full details of the provision, landscaping and treatment of open space/play space within the site together with a timeframe for its provision shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the open space/play space shall be landscaped, laid out and completed in accordance with the approved details and retained at all times as open space/play space

Reason - In the interests of amenity, to ensure the creation of a pleasant environment for the development with appropriate open space/play space and to comply with Policy R12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework

Planning Notes

1. PN19
2. PN22

Statement of Engagement

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.