

Case Officer:	Stuart Howden	Contact Tel:	01295 221815
Applicant:	Mr E & G King		
Proposal:	OUTLINE – Erection of 10 No dwellings		
Expiry Date:	16 th February 2017	Extension of Time:	17 th February 2017
Ward:	Fringfords and Heyfords	Committee Date:	16 th February 2017
Ward Councillors:	Cllrs Corkin, Macnamara and Wood		
Reason for Referral:	Major development		
Recommendation:	Approval		

1 APPLICATION SITE AND LOCALITY

- 1.1 The application site lies at the western extent of the village of Kirtlington and to the south of Mill Lane (which is a Public Bridleway (270/11/70)). The relatively flat site comprises 1.74 hectares of agricultural field and there are no buildings or structures on the site. The site does not constitute part of the built form of the village. To the east of the site are the boundaries of the properties on Hatch Way and Pound Close, and the site wraps around the properties on Woodbank (which is sited on a former quarry). To the north, south and west of the site is open countryside. Part of the site includes Public Footpath 270/10/10 that runs between Woodbank and Pound Close, linking Mill Lane and Hatch Way.
- 1.2 A small section of the north east of the site lies within the Kirtlington Conservation Area and the Grade II listed buildings of Wishing Cottage and Manor Farm House are situated within close proximity to the site to the east. The site is on land that is potentially contaminated. The site has some ecological potential as the Kirtlington Quarry SSSI is situated within 2KM of the site.

2 DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1 Outline planning permission is sought for the erection of 10 No dwellings on the site and all matters are reserved apart from access. A Planning Statement and Design and Access Statement have been submitted alongside the application as well as various supporting technical documentation and an indicative site layout plan.
- 2.2 Two accesses to the site are proposed off Mill Lane, one being a pedestrian access along Public Footpath 270/10/10 which runs between Pound Close and Wood Bank, and the other being the vehicular access to the site and this would be situated on the west side of Woodbank. The access road would run from the north of the site to the south. The indicative site layout plan submitted displays a mixture of housing types, including detached dwellings,

semi-detached dwellings and terraced dwellings. 9 of these dwellings are shown to have their backs facing towards Hatch Way, whilst the other dwelling is shown to the south of the site and is north facing. The indicative site layout plan also shows the provision of landscaping including a new pond to be provided to the west of the access road.

- 2.3 A screening opinion issued by Cherwell Council in December 2016 (15/00097/SO refers) concluded that an EIA (Environmental Impact Assessment) was not required for the proposed development.

3 RELEVANT PLANNING HISTORY

- 3.1 There is no planning history directly related to the application site, but the following history relating to neighbouring sites is considered relevant:
- 3.2 14/02139/OUT - OUTLINE - Demolition of existing bungalow and agricultural buildings and residential development of up to 75 dwellings including highway works, landscaping and public open space – REFUSED on 25th March 2015 and DISMISSED at appeal on 12th May 2016. The application site for this previous scheme is located to the south of the current site. The proposed development, by virtue of its scale, size and form was considered to fail to respect the traditional settlement pattern of Kirtlington, and result in an incongruous, unsustainable form of development which would have poorly related to the remainder of Kirtlington and cause demonstrable harm to the character of the village and visual amenities of the immediate locality. The refusal of the planning application was appealed, but the Planning Inspector subsequently dismissed the appeal. The Inspector concluded that the proposal would have caused significant damage to the character and appearance of the area and the rural setting of the village of Kirtlington. Importantly, the Inspector noted that the scheme for 75 dwellings in Kirtlington was not in compliance with the overall housing strategy in the Cherwell Local Plan Part 1 and that allowing this amount of housing to be developed would amount to an undesirable over-concentration of new housing development in Kirtlington that would prejudice a more even planned and sustainable distribution of housing development across the District's Category A Villages. Thus, the proposal was considered to be undesirable, unnecessary and so unsustainable additional development in this rural location.
- 3.3 14/01531/OUT – Outline – Demolition of existing bungalow and agricultural buildings and residential development of up to 95 dwellings including highway works, landscaping and public open space – Appealed due to non-determination, but DISMISSED at appeal on 27th August 2015. This application again related to the site to the south of the current application and this appeal was dismissed for similar reasons to the planning application referred to above.
- 3.4 09/01431/F – Erection of five detached residential units and access – APPROVED on 9th December 2009. This relates to the development of Woodbank which used to be an industrial site within an old quarry. Consent was granted to develop 5 dwellings on the site. It was considered that the site was within the built up limits of Kirtlington and was in accordance with the now replaced policy H13 within the Cherwell Local Plan 1996.

4 PRE-APPLICATION DISCUSSIONS

- 4.1 16/00229/PREAPP – Residential development for 10 dwellings – Closed on 19th September 2016. A scheme for 10 dwellings on the same application site was submitted to the Local Planning Authority, but officers raised concerns with the proposal. It had not been demonstrated that the proposal would sympathetically integrate with the distinctive linear form of this village and it was therefore considered that the proposal would represent a harmful intrusion into the countryside. Officers concluded that the proposal would also cause harm to the character and appearance of the open countryside.

5 RESPONSE TO PUBLICITY

- 5.1 This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records.

- 5.2 At the time of writing the Local Planning Authority has received letters of objection in respect of the proposed development from 54 members of the public. The concerns raised by third parties are summarised as follows:

- Will set a precedent;
- Lack of services in the village and bus service has been reduced;
- Enough housing being built in other areas;
- Poor housing mix;
- Reference to SHLAA (the site was discounted in the SHLAA);
- Reference to Appeal for application at Land off Lince Lane;
- The site is of high landscape value;
- The site contributes to the setting of the village;
- Harm the rural appearance of the area;
- Would go against the linear pattern of development;
- It is unknown how the developer will proceed with the application;
- The development turns its back on the village and is detached from the village;
- Loss of enjoyment of Bridleway on Mill Lane
- Existing properties create a strong boundary to the village;
- New footpaths would change the rural character of this part of the village;
- Will exacerbate traffic in and around the village;
- Mill Lane is a bridleway and there is potential for conflict with more cars using Mill Lane and such a highway is unsuitable for the amount of traffic as a result of the proposal;
- The exit on to the A4095 from Mill lane is unsafe;
- The access along North Green is inadequate;
- Would cause harm to the amenities of neighbouring properties including overlooking and loss of privacy;
- Loss of private view;
- A restrictive covenant on the use of the land to the west of the site could be overturned in the future;
- An archaeological report should have been submitted alongside the application;
- Would damage hedgerows along the site;
- Would harm protected species;

- Would harm the TPO'd Beech Trees;
- The site is high quality agricultural land;
- There is no social housing provision and the scheme is deliberately for 10 dwellings to avoid the requirement of affordable housing;
- Lack of capacity at the local school;
- The village has an inadequate sewerage system;
- Surface water run off concerns;
- The electricity supply is unstable and the new development would impact upon this;
- The development is close to an overhead electricity line;
- Due to the geology of the site, it will difficult to build the development;
- The pond will soak away due to the low water table in the area;
- Construction traffic could cause highway safety concerns;
- Devaluation of property price;
- Ownership dispute;
- Danger of golf balls flying onto the site.

5.3 The comments received can be viewed in full on the Council's website, via the online Planning Register.

6 RESPONSE TO CONSULTATION

6.1 Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

PARISH/TOWN COUNCIL

6.2 KIRTLINGTON PARISH COUNCIL: **Object** to the application for the following reasons:

- Vehicular access –
 - Mill Lane is insufficient to take two way traffic and it is questionable whether this road meets highway standards;
 - There are no footpaths from the North Green to the site. The Parish Council opposes any widening or improvements of the tracks around North Green, The Pound and of Mill Lane as this would have a detrimental effect on the rural character of this part of the village;
 - The access to this development would impact upon the setting of the Kirtlington Conservation Area;
 - In law, only the residents of the properties at Pigeons Lock have right of vehicular access down Mill Lane;
 - It is considered that the addition of more vehicles using Mill Lane and North Green will exacerbate the hazards that already exist;
- The site access drawing (produced by Connect Consultants, Dwg No 16120-010) does not provide an adequate level of detail;
- Concerns regarding the over-urbanisation of Mill Lane through the introduction of kerbs, and seeks reassurance that the detailed design of the site access will respect the rural nature of Mill Lane;
- An archaeological survey has not been carried out;
- The secondary pedestrian access would have an adverse impact on Beech trees (3 of which are subject to a TPO);

- No affordable housing is proposed and the applicant has limited the scheme to 10 dwellings to avoid the provision of such housing;
- This development does not respect the historic settlement pattern of the village. The historic western boundary of the village is formed by what was one of the main routes through the village, the Woodstock Way. The current settlement pattern strongly respects the line of this historic route and does not encroach beyond it;
- This development is contrary to the Parish Council's resolution that there should be no development west of the old Woodstock Way, which was passed in light of work being carried out on the definition of the village's settlement boundary to inform the Mid-Cherwell Neighbourhood Plan (NP) process;
- Loss of farming land would have an adverse impact on the setting to the village, particularly when viewed from the west and south;
- The reasons for the rejection of the site in the Strategic Housing Land Availability Assessment are still relevant;
- The services within the village are limited (i.e. schooling places and the shop is small);
- The proposal would cause detrimental harm to the character and appearance of the area;
- The applicant's offer of a perpetual covenant could be easily overturned in the future;
- Water pressure problems, sewage issues and electricity supply issues;
- The infiltration basin would not allow for adequate hedging on the western boundary;
- The proposal would set a precedent for further development of the village westwards;
- Details demonstrating that adequate site access for waste collection has been considered are required.

STATUTORY CONSULTTEES

6.3 MID CHERWELL NEIGHBOURHOOD FORUM: **Object** to the application for the following reasons:

- The proposal represents an extension to the settlement which is unacceptable as it is self-contained and unconnected with the rest of the settlement;
- The site is not brownfield land and is therefore contrary to policy PD01 which encourages development on brownfield land;
- The development will seriously damage the rural character of Mill Lane contrary to policy PT02;
- The screening of the development may be insufficient to meet policy PD06;
- The proposal contains no affordable housing or social housing, both of which are needed in the locality.

6.4 ENVIRONMENT AGENCY: **No comments received.**

6.5 NATURAL ENGLAND: **No objections.**

6.6 OCC HIGHWAYS AUTHORITY: **No objections** subject to conditions and a section 106 agreement to secure:

- Contribution of £2,250 to provide improvements to the bus stop infrastructure; and
- Contribution of £10,000 to enhance the bus service

6.7 THAMES WATER: **No objections** in relation to sewerage infrastructure capacity and water infrastructure capacity.

NON-STATUTORY CONSULTEES

- 6.8 OCC ARCHAEOLOGY: **No comments received.**
- 6.9 CDC ARBORICULTURAL OFFICER: **No objections.**
- 6.10 CDC CONSERVATION: **Object** to the application. The proposal is a self-contained development. The layout of the overall site remains alien to the traditional settlement pattern of villages within the district and the proposal fails to integrate into the existing streetscape/public space. Further the location of the proposed development is without the village envelop on land that has always had an agricultural use.
- 6.11 CDC ECOLOGY: **No comments received.**
- 6.12 CDC ENVIRONMENTAL PROTECTION: **No objections in principle.** An assessment for land contamination would be required to demonstrate that the site is suitable for the proposed end use. As a minimum a desk study and site walkover report would be required and this can be conditioned.
- 6.13 CDC LANDSCAPE SERVICES: **No objections** in principle and generally in agreement with the Landscape Visual Impact Assessment submitted. 10 dwellings trigger the requirement for a Local Area of Play.
- 6.14 CDC PLANNING POLICY: **No comments received.**
- 6.15 CDC RECREATION & LEISURE: Contributions should be sought for off-site sports and community provision.
- 6.16 CDC STRATEGIC HOUSING: **No comments received.**
- 6.17 THAMES VALLEY POLICE DESIGN ADVISOR: **No comments received.**
- 6.18 CDC URBAN DESIGN: **No comments received.**
- 6.19 CDC WASTE & RECYCLING: The developer will need to provide adequate storage for waste and recycling.

7 RELEVANT PLANNING POLICY AND GUIDANCE

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2 The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- PSD1 – Presumption in Favour of Sustainable Development
- SLE4 – Improved Transport and Connections
- BSC1 – District Wide Housing Distribution

- BSC2 – The Effective and Efficient Use of Land – Brownfield land and Housing Density
- BSC3 – Affordable Housing
- BSC4 – Housing Mix
- BSC9 – Public Services and Utilities
- BSC10 – Open Space, Outdoor Sport and Recreation Provision
- BSC11 – Local Standards of Provision – Outdoor Recreation
- BSC12 – Indoor Sport, Recreation and Community Facilities
- ESD1 – Mitigating and Adapting to Climate Change
- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD6 – Sustainable Flood Risk Management
- ESD7 – Sustainable Drainage Systems (SuDs)
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 – Local Landscape Protection and Enhancement
- ESD15 – The Character of the Built and Historic Environment
- ESD17 – Green Infrastructure
- Villages 1 – Village Categorisation
- Villages 2 – Distribution Growth Across the Rural Areas
- INF1 – Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18 – New dwellings in the countryside
- TR1 – Transportation funding
- C8 – Sporadic development in the open countryside
- C28 – Layout, design and external appearance of new development
- C30 – Design of new residential development
- ENV1 – Environmental pollution
- ENV12 – Potentially contaminated land

7.3 Other Material Planning Considerations:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Annual Monitoring Report (AMR) 2015
- Strategic Housing Land Availability Assessment (SHLAA) Update 2014
- Oxfordshire Wildlife & Landscape Study 2004
- Connecting Oxfordshire: Local transport Plan 2015-2031
- Home Extensions and Alterations Design Guide (2007)

7.4 The Mid-Cherwell Neighbourhood Plan Area extends across several parishes including Kirtlington, and work is under way on the preparation of a draft Neighbourhood Plan for the area. Draft Policies were published for public comment in January 2017, but as yet no formal consultation has been undertaken in respect of a draft Plan, and no Plan has been submitted to Cherwell District Council. As such, in accordance with Paragraph 216 of the NPPF, officers consider that little weight can be attached to the Neighbourhood Plan at this stage.

8 APPRAISAL

8.1 Officers' consider the following matters to be relevant to the determination of this application:

- Principle of the Development;

- Landscape and Visual Impact and Local Character;
- Design and Appearance;
- Impact upon Historic Environment;
- Accessibility, Highway Safety and Parking;
- Effect on Neighbouring Amenity;
- Ecology and Trees;
- Potentially Contaminated Land;
- Flooding Risk and Drainage;
- Sustainability and Energy Efficiency;
- Planning Obligations;
- Local Finance Considerations;
- Other Matters.

Principle of the Development

- 8.2 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 perform economic, social and environmental roles. These roles should be sought jointly and simultaneously through the planning system.
- 8.3 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.
- 8.4 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.
- 8.5 Policy Villages 2 of the Cherwell Local Plan Part 1 states that: *“A total of 750 homes will be delivered at Category A villages. This will be in addition to the rural allowance for small site ‘windfalls’ and planning permissions for 10 or more dwellings as at 31 March 2014”*. Kirtlington is identified as a Category A village, and so is considered suitable in principle to accommodate some additional housing under Policy Villages 2. Category A villages are considered the most sustainable settlements in the District’s rural areas and have physical characteristics and a range of services within them to enable them to accommodate some limited extra housing growth.
- 8.6 The site is clearly not within the built up limits of the village of Kirtlington being within an agricultural field separate from the existing residential development to the west of the site, but it has been recognised at a recent appeal decision that ‘at Category A villages’ could mean adjacent to the settlement boundary. As the proposal is for 10 dwellings on land outside, but immediately adjacent to the built up limits of the village, it can be considered under Policy Villages 2 of the Cherwell Local Plan Part 1.
- 8.7 Policy Villages 2 states that sites will be identified through the preparation of Local Plan Part 2, through the preparation of Neighbourhood Plans where applicable, and through the determination of applications for planning permission. An Issues and Options paper for the preparation of Local Plan Part 2 is currently being prepared. In identifying and considering sites, particular regard will be given to the following criteria:
- *“Whether the land has been previously developed land or is of less environmental value;*

- *Whether significant adverse impact on heritage and wildlife assets could be avoided;*
- *Whether development would contribute in enhancing the built environment;*
- *Whether best and most versatile agricultural land could be avoided;*
- *Whether significant adverse landscape impacts could be avoided;*
- *Whether satisfactory vehicular and pedestrian access/egress could be provided;*
- *Whether the site is well located to services and facilities;*
- *Whether necessary infrastructure could be provided;*
- *Whether land considered for allocation is deliverable now or whether there is a reasonable prospect that it could be developed within the plan period;*
- *Whether land the subject of an application for planning permission could be delivered within the next five years; and*
- *Whether development would have an adverse impact on flood risk."*

8.8 The acceptability of the proposal when tested against these criteria, and other material planning considerations, is discussed below. In particular, consideration in respect to the relationship to the existing built and natural environment will be discussed later in the report. However it is first important to consider the matter of scale and quantity of development, and in particular whether the proposal is in accordance with the overarching housing strategy of the Cherwell Local Plan 2011-2031 Part 1.

8.9 Paragraph 212 of the Inspector's report in the examination into the Cherwell Local Plan Part 1 notes that the plan's overall strategy sustainably focusses most new development in the two towns of Bicester and Banbury and that it properly seeks to alter the local pattern of recent housing growth, as a disproportionate percentage (almost half) has taken place in the smaller settlements. This is reinforced by the Council's Annual Monitoring Report (published 31st March 2015) which identifies that significant progress has already been made to meeting the allocation of 750 homes to be delivered at Category A villages as over 500 of these have already been identified through permissions.

8.10 Whilst of the 750 houses in total to be delivered at Category A villages may not represent a strict limit, as noted by the Inspector for the scheme at Land off Lince Lane, Kirtlington (ref: 14/01531/OUT), any significant increase over and above 750 could lead to unconstrained growth which would result in non-compliance with the strategy for rebalancing housing growth away from the villages and rural areas.

8.11 Kirtlington is one of 23 Category A villages and is the 11th largest Category A village in terms of parish population size (a population of approximately 988), and a pro rata share of the Policy Villages 2 allocation based on parish population size would be 17 dwellings. This does not represent a limit on the amount of housing that could be accommodated at Kirtlington, but the size of the village in relation to others is a factor to take into account in the distribution of development under Policy Villages 2, and in particular determining the amount of development that is appropriate and sustainable in any one village location.

8.12 As noted by Planning Inspectors in relation to appeals at Lane off Lince Lane, Kirtlington (ref: 14/01531/OUT) and Land north of Green Lane, Chesterton (15/00454/OUT), if disproportionate numbers of housing are provided in one single Category A settlement early within the plan period, it would leave other Category A settlements unable to meet their housing needs (including for affordable housing) later on in the plan period without being in conflict with Policy Villages 2.

- 8.13 In this case, it is considered that the provision of 10 homes (being the minimum permissible to qualify under Villages 2) in this one location would still leave scope for development in other Category A villages in terms of numbers or timing and would not be contrary to the housing strategy for villages as set out in the Cherwell Local Plan.
- 8.14 The provision of 10 dwellings at Kirtlington would result in an increase in the population and it is acknowledged that the village shop is limited in scale and Kirtlington CE Primary School is operating close to capacity and there are limited opportunities for employment. That said, Kirtlington has an hourly bus service to Oxford and Bicester and the Oxfordshire County Council School Organisation Officer has raised no objections to the proposal. As the scheme is only for 10 dwellings it is considered that the proposal would not undermine other strategies in the Local Plan with regard to matters such as employment, transport and public services and utilities, and represents a proportionate addition to the village relative to its present sustainability.
- 8.15 Given the above, the principle of the development could be acceptable, but this is subject to other material considerations which will be discussed below.

Landscape and Visual Impact and Local Character

- 8.16 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.
- 8.17 Paragraph 61 of the NPPF states that: *“Although visual appearance and the architecture of individual buildings are very important factors, securing high quality design goes beyond aesthetic considerations. Therefore planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.”*
- 8.18 Policy ESD15 of the Cherwell Local Plan Part 1 states that: *“New development proposals should:*
- *Contribute positively to an area’s character and identity by creating or reinforcing local distinctiveness and respecting local topography, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views.*
 - *Respect the traditional pattern routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly defined active public frontages.”*
- 8.19 Policy ESD13 of the Cherwell Local Plan Part 1 states that: *“Development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. 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;*
 - *Harm the setting of settlements, buildings, structures or other landmark features;*
 - *Harm the historic value of the landscape.”*

- 8.20 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.
- 8.21 Kirtlington is linear in form, following the Oxford Road / B4095 along a slight ridge above the River Cherwell to the west and adjacent to Kirtlington Park to the east. The settlement has developed along a pre-existing north-south route. A network of smaller lanes branches off this main route. The character of the streets has evolved over many centuries of use, producing robust and attractive places which have been able to adapt to the demands of modern life. The setting of the village has not been undermined by the 20th century additions that fit comfortably with the traditional settlement pattern. The character of the village is interlinked with the wider landscape which defines the edges of the village and reinforces the settlements distinctive linear form.
- 8.22 As the proposed scheme would be accessed from Mill Lane, which connects with, and runs to the west of the main north-south route through the village, the proposed development form would be disconnected from the main village structure. The proposed scheme would also turn its back on the existing development within the village. Whilst the development would be linear in nature, officers consider that the proposal would therefore fail to authentically integrate with the linear form of this village and there would be some harm to the area's established character.
- 8.23 In relation to the matter of linearity, the applicant's agent has stated that development has taken place at Woodbank which is accessed from Mill Lane. However the considerations for the planning application (ref: 09/01431/F) in relation to this approved development were different as this development is on the site of a former quarry and this was considered to be a brownfield site which was part of the built up limits of the village. That said, unlike the scheme to the south of the site for 75 dwellings, the current housing scheme would be relatively modest in its scale and would follow the phasing of more recent development in the village in that it would be more gradual and restricted. Furthermore, given that the development would only require one access road with the housing facing in a single direction (as shown on the indicative plan) and being single depth, it considered by officers that the proposal would not appear as a self-contained estate but rather as a small cul-de-sac, not dissimilar to others in the village. It is therefore considered that the harm to the established character of the village would not be significant.
- 8.24 It is acknowledged reference has been made to the Strategic Housing Land Availability Assessment (SHLAA) (August 2014) by third parties and that this site formed part of a larger site included for consideration, but which was rejected in the SHLAA. It was stated in the SHLAA that the traditional pattern of Kirtlington is linear and that this site would extend the village well beyond any existing development to the west of the village. Whilst the SHLAA is a material consideration in the determination of this application, the site that was assessed was considerably larger than the one put forward in this current planning application therefore the impact upon the village pattern would not be so significant in comparison to the site put forward in the SHLAA.
- 8.25 The landscape around the site and village is located within the Wooded Estate Land character type within the Oxfordshire Landscape Study 2004, and this notes the area is characterised by rolling topography, arable farming and small villages with a vernacular style. The application site is typical of this landscape character.
- 8.26 The application is accompanied by a Landscape and Visual Impact Assessment (LVIA) which has considered the potential impacts on the landscape character and amenity of the site and the surrounding area. In terms of the visual assessment carried out by Smeeden Foreman,

fieldwork was undertaken to identify a number of viewpoints in the immediate and wider setting of the site. The LVIA acknowledges that the development will be visible from the nearest viewpoints, including from Mill Lane to the north west of the site and PRoW 270/10/30 to the south of the site, and that the proposed dwellings would also be visible in outline from Lince Lane to the south of the site. The LVIA goes on to note that views from the south of the site would only be partial due to hedgerows on the southern boundary of the site. The LVIA also states that from most points on Mill Lane, views towards the application site will be improved by the landscaping that could be planted on the western boundary and this scheme will soften the harsh edge of existing properties on Hatch Way, thereby creating a much more sympathetic transition between built form and the rural landscape. The LVIA concludes that views towards the application site and the existing edge of Kirtlington will be visually softened and sympathetically integrated with foreground views of Kirtlington's rural context.

- 8.27 The Council's Landscape Team note that they generally accept the findings of the visual assessment. The Council's Landscape Team hold the view that there will be a degree of harm at the construction phase and the early years of establishment and growth of the structural vegetation on the western boundary of the site for visual receptors on Mill Lane. The Landscape Team note that the landscape buffer on this boundary will need to be designed sensitively with the appropriate native tree and hedgerow species. The Landscape Team has also noted that the hedgerows on the northern and southern boundaries of the site will also need to be retained and maintained at a height of 3 metres. The Landscape Team has requested a landscape plan as a condition, but given that landscaping is a matter to be assessed at the reserved matters stage, it is not considered necessary or reasonable to condition this matter at the outline stage.
- 8.28 Officers hold the view that due to the planting to the south of the site, views from PRoW 270/10/30 to the south of the site would be partial and that longer distance views from the south on Lince Lane would not be clear given the distance of the viewpoint, intervening landscaping and the narrowness of the site. Officers are in agreement that the southern boundary of the site should be retained and maintained. In relation to views from Mill Lane to the north of the site these would be somewhat screened by hedging and existing development on Woodbank, but clear views would be gained from the access into the site.
- 8.29 Moving to north west of Mill Lane, it is considered that views of the site would be achieved, even more so in the early years of the development without establishment and growth of vegetation on the western boundary. Officers are not in agreement with the LVIA where it states the rear boundaries of properties on Hatch Way create a 'harsh' edge to the village and that the proposed development would 'greatly improve' the existing edge formed by properties on Hatch Way. In fact, the rear of Hatch Way provides a clear distinction between the village and countryside and the development on this site would make this distinction less clear impacting upon the rural village setting. Such a distinction also reinforces the distinctive linear form of the village. Furthermore, the introduction of housing, an access road and associated domestic paraphernalia would have an urbanising effect on this part of the open countryside. However whilst it is considered that there would be some harm to the setting of the village, given the development would not extend significantly into the countryside and given the amount of undeveloped agricultural land that would remain to the west, it is considered the harm would not be significant. An acceptable landscaping scheme can be agreed at reserved matters stage to ensure the right balance is struck between preserving a clear and distinct edge to the village whilst mitigating and softening the visual impacts of the development.
- 8.30 Kirtlington Parish Council has raised concerns that a sizeable infiltration basin would not allow for a viable depth of planting to be incorporated along the western site boundary to help screen the proposed development from the west, but officers hold the view that both adequate vegetation and a sufficiently sized infiltration basin can be achieved on the site.

- 8.31 It is noted by third parties that the western boundary of the village is formed by what was historically one of the main routes through Kirtlington (Woodstock Way). However, this route has been breached by development to the northern end of the village by Hatch Way and it is no longer possible to walk the historic route at this point, with the Right of Way having been diverted along Hatch Way before re-joining the historic route at Oxford Close. Given the relationship of the site to the historic route and existing development, it is considered that the proposed development would not significantly undermine the understanding of this route.
- 8.32 Works would be required to introduce a vehicular access to the site as well as upgrade the footpath on to Hatch Way and Mill Lane so as to connect the site to the village. This would result in additional hard standing and the loss of trees/hedgerows. It is considered that the works to the public footpath from Mill Lane and Hatch Way could be undertaken in such a way that would not urbanise the character of these paths, but great care will need to be taken. In relation to the vehicular access and associated visibility splays, this would result in a loss of the hedgerow to the front of the site and there would be some harm caused by this. The impact on protected trees is considered later in this report.
- 8.33 Thus, whilst it is accepted that there would not be a wider landscape harm, it is considered that the proposal would cause some harm to the rural setting of the village as well as harm to the immediate locality as a consequence of the development on this agricultural land. The development would also fail to authentically integrate with the historic linear pattern of development in the village, given its back-to-back relationship with existing development.

Design and Appearance

- 8.34 Policy ESD15 of the Cherwell Local Plan Part 1 provides guidance as to the assessment of development and its impact upon the character of the built and historic environment. It seeks to secure development that would complement and enhance the character of its context through sensitive siting, layout and high quality design meeting high design standards and complementing any nearby heritage assets. The National Planning Policy Framework is clear that good design is a key aspect of sustainable development.
- 8.35 The application is in outline form with all matters reserved for later consideration. The application is however accompanied by an indicative layout, which seeks to demonstrate that the development proposed can be accommodated on the site, and a Design and Access Statement and Planning Statement, which should set acceptable design principles so that future acceptable detailed proposals for the site can be achieved.
- 8.36 The illustrative layout submitted indicates that up to 10 dwellings can be accommodated on the site, with an access lane running north to south with 9 of the dwellings sited to the east of this lane and the other dwelling at the very end and facing northwards. Open space and landscaping is shown to the west of this access lane. The site would be linked to Hatch Way and Mill Lane via a footpath to the west of the site.
- 8.37 As noted above, given that the development would only require one access road and with the housing being sited on one side of the lane, it is considered by officers that the proposal would not appear as a self-contained estate but instead would read as a small cul-de-sac development not dissimilar in layout and size to others in the village. The site is linear and narrows to the north and south and as such the indicative layout is likely to be the most desirable on this site.
- 8.38 The indicative layout suggests inspiration has been taken from a group of farm buildings, with a mix of cottages, converted barn-style dwellings, and two higher status (farmhouse-like) properties. The approach taken is questionable as farm buildings do not tend to be linear in their layout, but instead are likely to be arranged around a courtyard. Traditional buildings in

Kirtlington are typically simple with their character coming from the unity of their materials and details. The character of the village is defined by small terraced cottages which, whilst having an informal character, are united by their consistent building line and use of materials.

- 8.39 That said, appearance, layout and scale are all reserved matters and so whilst officers have reservations about the approach indicated in the site layout plan, given the general layout and quantum of development is acceptable, acceptable details can be agreed at the Reserved Matters stage.

Impact upon Historic Environment

- 8.40 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the Local Planning Authority gives special regard to the desirability of preserving a listed building or its setting.
- 8.41 Section 12 of the NPPF (Conserving and Enhancing the Historic Environment) states that in determining planning applications, Local Planning Authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness. 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. Proposals that preserve those elements of significance should be treated favourably.
- 8.42 Paragraph 132 of the NPPF states that: *"Significance can be harmed 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."*
- 8.43 Policy ESD15 of the Cherwell Local Plan Part 1 states that development should: *"Conserve, sustain and enhance designated and non-designated 'heritage assets' 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 PPG."*
- 8.44 Kirtlington Conservation Area is situated to east of the site and a small section of the north east of the site, this being the footpath, is within the conservation area. There are also a number of Grade II listed buildings within close proximity to the site in this conservation area, including Wishing Cottage and Manor Farm House.
- 8.45 In relation to the nearby listed buildings, there are intervening buildings on Woodbank and Hatch Way that visually separate the site from the listed buildings therefore it is considered that a sensitive proposal would not materially alter the way these listed buildings are appreciated. Thus it is considered that the proposal could be undertaken on the site without causing harm to the significance and setting of any listed buildings.
- 8.46 In relation to the Kirtlington Conservation Area, it is considered that the path to Mill Lane within the conservation area can be upgraded without urbanising it and materially changing its rural character. In addition, the main body of the site where the housing would be proposed is sited behind relatively modern housing outside of the conservation area and views of the conservation area are not highly visible from Mill Lane to the north and west of the site due to this existing development. It is therefore considered that the proposal would not harm the significance and setting of Kirtlington Conservation Area.

- 8.47 It is noted that third parties have stated that site has archaeological potential, but the site is not recognised as an area of archaeological interest on the Council's records. Furthermore, the County Council Archaeologist has raised no comments regarding the scheme. It is therefore considered that the proposal is unlikely to have an invasive impact upon any known archaeological sites or features. As such there are considered to be no archaeological constraints to this scheme.

Accessibility, Highway Safety and Parking

- 8.48 Policy ESD15 of the Cherwell Local Plan Part 1 states that: *"New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions."* Policy SLE4 states that: *"All development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported."*
- 8.49 Access to the site will be from Mill lane (a public bridleway) from two points of the site, but only one access will be used for vehicular traffic. The transport statement states that vision splays of 2.4m x 34m could be provided, and the Local Highways Authority has stated that this is acceptable at this location, in accordance with Manual for Streets. Further details of the access can therefore be conditioned.
- 8.50 Mill lane is not adopted as a vehicular highway and the County Council is not required to maintain this highway, but the Local Highways Authority has stated that this is not considered to be a severe safety issue. The Local Highways Authority has noted that the Local Planning Authority should consult the Council's Waste & Recycling Officer to see if there are any implications for refuse vehicles servicing the site. Officers are awaiting a response from the Waste & Recycling Officer, but it is considered that such a matter is unlikely to justify a reason for refusal.
- 8.51 The Local Highways Authority has noted that the footpath linking to Mill lane and to the end of Hatch way is important to minimise the walking distances to local facilities including bus stops and the village post office/shop, but they have noted that this would benefit from upgrading to widen the surfaced area. Given the anticipated increased usage, and in order to maximise the connectivity between the development and the village centre, the upgrading of this path should be conditioned.
- 8.52 In relation to the traffic impact, the Local Highways Authority has stated that the expected level of trip generation from the development is low, with 4 and 5 2-way vehicle trips respectively in the AM and PM peak hours. The Local Highways Authority has stated that this is unlikely to have a detrimental impact on the surrounding highway network and is therefore acceptable given that it is unlikely to have a 'severe impact' on congestion or road safety.
- 8.53 The Local Highways Authority has stated that the current bus stop infrastructure is substandard at both northbound and southbound stops near to the post office on the A4095 Oxford Road has therefore requested a Section 106 contribution of £2250 to provide improvements to the bus stop infrastructure. This contribution is comprised of £1,090 for a pole, flag, and timetable case at the southbound stop and £1,160 for the relocation of the northbound stop. The County Council has a strategy of collecting contributions towards the

cost of enhancing this service towards a Connector level of service, as defined in the Local Transport Plan, with two daytime buses per hour in both directions with some evening and Sunday buses. A contribution at £1000 per dwelling is sought from this development via a Section 106 agreement (i.e. £10,000). The Local Highways Authority has noted that such a Section 106 contribution would be in accordance with the policies in Connecting Oxfordshire: Local transport Plan 2015-2031.

- 8.54 Regulation 123(3) of the Community Infrastructure Levy Regulations 2010 sets out limits on the pooling of S106 obligations from April 2015 or from when CIL is introduced if earlier. This only applies to infrastructure as defined by the Planning Act 2008 (i.e. physical facilities) and not matters such as bus service subsidy. It is therefore considered that the improvements to bus infrastructure would support the sustainability of the village and the development and such a sum should be sought if the application is to be approved.
- 8.55 The proposed development appears to primarily affect public bridleway 270/11/70 (Mill Lane), from which it is proposed to take the main vehicular access. The Local Highways Authority has noted that the further use of this bridleway by vehicles is not something that is preferred, but in this case the increase in use is considered to be acceptable given the small number of houses proposed. However, the Local Highways Authority has stated that to access the site, the applicant would need to prove private rights of access. Whether or not the applicant/developer has rights of access over Mill Lane and whether this can be extended to future occupants of the development is a civil matter and is not a material planning consideration.
- 8.56 A third party has raised concerns in relation to construction traffic potentially causing highway safety concerns and a Construction Traffic Management Plan would be requested as a condition should planning permission be granted so as to ensure the safe movement of traffic into and around the construction site.

Effect on Neighbouring Amenity

- 8.57 Policy ESD15 of the Cherwell Local Plan Part 1 states that new development proposals should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space. Paragraph 17 of the NPPF notes that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Saved Policy C30 of the Cherwell Local Plan 1996 states that design control will be exercised so that new housing development or any proposal for the extension or conversion of any existing dwelling provides standards of amenity and privacy acceptable to the Local Planning Authority.
- 8.58 Properties adjacent on the eastern boundary of the site on Woodbank and Hatch Way are most likely to be affected by the proposed development and these require consideration. However, officers are of the opinion that a scheme for 10 dwellings on the site could be achieved without causing undue harm to any neighbouring properties. It is considered that the proposed dwellings in the indicative layout appear to be sited a sufficient distance away from neighbouring properties so as to prevent undue harm to any neighbouring properties in terms of loss of light, loss of privacy or overlooking, or the creation of an overbearing effect. Whilst a proposed access track is proposed to the rear of the dwellings on Woodbank and Hatch Way, this would be set away from these rear boundaries and it is considered that the

vehicular activity on this track would not cause materially detrimental levels of nuisance for neighbouring properties.

- 8.59 There is potential for noise from the construction phase, but such noise would be short lived and the Council can take action against statutory nuisance under separate Environmental legislation, if required

Ecology and Trees

- 8.60 Section 40 of the Natural Environment and Rural Communities Act 2006 (as amended) places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making. Paragraph 99 of Circular 06/2005: Biodiversity and Geological Conservation states that: *"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision"*.
- 8.61 Paragraph 109 of the NPPF states 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."*
- 8.62 Policy ESD10 of the Cherwell Local Plan Part 1 reflects the requirements of the Framework to ensure protection and enhancement of biodiversity. The Authority also has a legal duty set out in the Natural Environment and Rural Communities Act 2006 (NERC 2006) which states that *"every public authority must in exercising its functions, must have regard ... to the purpose of conserving (including restoring / enhancing) biodiversity."*
- 8.63 Natural England has raised no objections to the proposal and has noted that the proposal as submitted will not damage or destroy the interest features for which the Kirtlington Quarry SSSI has been notified.
- 8.64 In relation to protected species, the application is accompanied by a Phase 1 Ecological Survey which includes a walk over of the site. This report identifies four main habitat types: improved grassland; ruderal vegetation; hedgerow with trees; and individual trees. The report notes that the proposal would retain the majority of habitats on the site including trees and hedgerows and that the main loss of habitat would be the improved grassland which is noted to be of low ecological value. The report identifies that there is low potential for the site to support badgers, great crested newts, reptiles, water voles and otters, and whilst the site is likely to support nesting birds the proposal can enhance the site for nesting and foraging.
- 8.65 The ecological report did identify that there was potential for the site to be used by bats for foraging and commuting and such additional surveys were undertaken to assess if any mitigation was required. The Bat Transect Survey has confirmed that the site is used by foraging and commuting bats and this is noted as taking place along the northern and eastern boundaries of the site. It is stated that the proposed layout allows for the retention of the hedgerows and trees and that it is anticipated that the use of the site by bats will not be significantly affected by the development.

- 8.66 Furthermore, the survey makes recommendations in order to enhance biodiversity on the site, including the creation of areas of wildflower grassland within areas of public open space and appropriate native tree and shrub species within any proposed landscape planting.
- 8.67 The Council's Ecology Officer was consulted, but comments have not been received from the Ecology Officer within the consultation period. Regard is had to Government advice contained within the PPG in relation to biodiversity by officers. The Ecology Report submitted alongside the application is comprehensive and officers see no reasons to disagree with the findings and conclusions within it. Officers would expect to see a detailed biodiversity enhancement scheme and this matter could be conditioned should the application be approved. It is therefore considered that the proposal is unlikely to cause harm to any protected species or their habitats, subject to conditions
- 8.68 On the matter of trees, Policy ESD10 of the Cherwell Local Plan part 1 requires the protection of trees amongst other ecological requirements. Policy ESD13 of the Cherwell Local Plan Part 1 also encourages the protection of trees and retention of landscape features.
- 8.69 There are a number of established trees on the site, which are mainly focussed around the perimeter of the site as well as just outside the site. The report notes that there are no Tree Preservation Orders (TPO) on the site where development is proposed, but that there are three Beech Trees covered by a TPO which are located within the proposed footpath link. The Local Highways Authority has recommended that this footpath link from the site to Hatch Way and Mill Lane is upgraded and this work is considered necessary so that the site is well connected. Thus, there is potential for harm to these TPO'd Beech Trees if such works to the footpath are undertaken. As the applicant is not proposing the removal of these trees it is likely that details of tree protection measures can be secured by condition. However, for the avoidance of any doubt, if members resolve to approve the application officers will seek further assurance from the applicant that the upgrading works can be carried out without harm to the protected trees, prior to issuing any planning permission.
- 8.70 In relation to other trees on the site the report notes that the development would not impact upon the trees on the site and the Council's Arboricultural Officer has raised no objections to the proposal. It is considered that the scheme for 10 dwellings on the site could be undertaken without causing harm to these other trees within the main body of the site.

Potentially Contaminated Land

- 8.71 Saved Policy ENV12 of the Cherwell Local 1996 states that development on land which is known or suspected to be contaminated will only be permitted if adequate measures can be taken to remove any threat of contamination to future occupiers of the site and the development is not likely to result in contamination of surface or underground water resources. The site is on land which is potentially contaminated and given the sensitivity of the proposed use, the Council's Environmental Protection Officer has noted that an assessment for land contamination is required to demonstrate that the site is made suitable for the proposed end use. To ensure that risks from land contamination to future users of the land and neighbouring land are minimised, such an assessment should be conditioned.

Flooding Risk and Drainage.

- 8.72 A Flood Risk Assessment (FRA) is submitted with the application in line with the requirements of Policy ESD6 of the Local Plan and the Framework, given the site extends to over 1ha in area and is predominantly in Flood Zone 1. Land within Flood Zone 1 is land which has a less than 1 in 1,000 annual probability of river flooding.
- 8.73 Policy ESD7 of the Local Plan requires the use of Sustainable Urban Drainage Systems to manage surface water drainage. This is all with the aim to manage and reduce flood risk in the District, without increasing flood risk elsewhere.
- 8.74 The FRA notes that the risk of flooding is low from all sources of flooding as a result of the proposed development. The FRA states that, subject to the drainage strategy submitted being carried out which includes an infiltration basin and road swales, there are no essential mitigation measures. However it recommends mitigation measures to provide further protection to the development and reduce any residual risk as far as practicable, such as raising the finished floor levels of the proposed dwellings above the access road levels and installing concrete ground floors with damp proof membranes. The FRA concludes that the site is suitable for residential use without unacceptable risk of flooding from all sources to the site itself and elsewhere as long as the essential and recommended mitigation measures are implemented.
- 8.75 The Environment Agency has been consulted, but to date has not commented on the proposals. The Local Highways Authority, with the advice of OCC Drainage, has stated that the infiltration rate is likely to be the same as the adjacent site, but that this will need to be checked via approved testing methods and calculations adjusted to suit the actual infiltration rates observed. The Local Highways Authority has stated that the developer would need to produce a maintenance schedule for the development to make sure the drainage system remains in working order for the life of the development. Given the comments from highways and that the scheme is at outline stage, a surface water drainage strategy should be required by condition should permission be approved.
- 8.76 In relation to sewerage infrastructure capacity, a number of concerns have been raised by third parties in relation to this matter and that the proposal would make existing issues worse. However, Thames Water, who is a statutory consultee and the Water Authority in this case, has raised no objections to the proposal and it is therefore considered that it would not be reasonable to justify a refusal on such grounds.

Sustainability and Energy Efficiency

- 8.77 Policy ESD1 of the Cherwell Local Plan Part 1 states that measures should be taken to mitigate the impact of development within the District on climate change, and Policy ESD2 of the Cherwell Local Plan Part 1 seeks to achieve carbon emission reductions. Policy ESD3 of the Cherwell Local Plan Part 1 encourages sustainable construction and states that all non-residential development will be expected to meet at least BREEAM 'Very Good' with immediate effect.
- 8.78 The application has not been accompanied by a Sustainability and Energy Statement and sustainability should be built into the proposal and it should be demonstrated how the

proposal complies with Policies ESD1-3 of the Cherwell Local Plan Part 1. This is a matter that would be addressed by condition if the application were to be recommended for approval.

Planning Obligations

- 8.79 Policy INF1 of the Local Plan states that: *development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.*
- 8.80 The Authority is also required to ensure that any planning obligation sought meets the following tests, set out at Regulation 122 of the Community Infrastructure Regulations 2010 (as amended):
- Necessary to make the development acceptable in planning terms;
 - Directly relate to the development; and
 - Fairly and reasonably related in scale and kind to the development.
- 8.81 The NPPF advises that in order to create sustainable, inclusive and mixed communities, Local Planning Authorities should plan for a mix of housing, reflect local demand and set policies for meeting affordable housing need. Policy BSC3 requires developments of 11 or more dwellings within locations such as Kirtlington to provide 35% affordable housing on site and provides detail on the mix that should be sought between affordable/social rent and shared ownership. 10 dwellings are proposed and this falls below this threshold. However Policy BSC3 also notes that affordable housing should be sought on sites suitable for 11 or more dwellings gross. Officers are of the opinion that the addition of further dwellings on the site would likely cause further harm to this sensitive edge of village location, and given the constraints and layout of the site, officers are satisfied that the site would not be suitable to accommodate more than 10 dwellings. Thus, affordable housing is not being sought on the site.
- 8.82 Policy BSC11 of the Cherwell Local Plan Part 1 states that: *“Development proposals will be required to contribute to the provision of open space, sport and recreation, together with secure arrangements for its management and maintenance. The amount, type and form of open space will be determined having regard to the nature and size of development proposed and the community needs generated by it. Provision should usually be made on site in accordance with the minimum standards of provision set out in ‘Local Standards of Provision – Outdoor Recreation’. Where this is not possible or appropriate, a financial contribution towards suitable new provision or enhancement of existing facilities off site will be sought, secured through a legal agreement.”*
- 8.83 With regard to Policy BSC11, this highlights that schemes for 10 or more residential units trigger the requirement for a Local Area for Play (LAP) of a minimum size of 100 square metres of play activity with 300 metres of landscape buffer and it is considered that this can be provided on the site. Thus, a LAP would be sought if the application were to be approved. Contributions would also be sought for the maintenance of the LAP, retained hedgerows, ditch, pond and proposed informal open space (see below table for commuted sums and rates for 15 year maintenance contribution).

Typologies	Commuted sum/rate
LAP	27,501.52
Informal Open Space	9.32/m2
Balancing Pond	11.63/m2
Hedgerow	14.35/m2

8.84 As noted above, contributions are also being sought for the improvements to the bus stop infrastructure at Kirtlington. It is considered that the improvements to bus stop infrastructure would support the sustainability of the village and the development, in accordance with Policy PSD1, SLE4, ESD1, Villages 2 and INF1 and such a sum should be sought if the application is to be approved.

8.85 The Council's Recreation and Health Team have requested contributions for off-site sports and community provision. However, the Planning Practice Guidance notes that there are specific circumstances where contributions for affordable housing and tariff style section 106 planning obligations should not be sought including for schemes of 10 units or less and which have a maximum combined gross floor space of no more than 1,000 square metres. As the scheme is only for 10 houses, contributions toward off-site sports and community provision are not being sought.

8.86 Whilst acknowledging that local school places are limited, Oxfordshire County Council's School Organisation Officer has not requested contributions given the relatively small scale of the scheme. Furthermore, the County Council's Infrastructure Funding Negotiator has not requested any contributions to mitigate the impact of this development on infrastructure.

Local Finance Considerations

8.87 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a Local Planning Authority must have regard to a local finance consideration as far as it is material. This can include payments under the New Homes Bonus. The scheme has the potential to generate £88,248.66 for the Council under current arrangements once the homes are occupied. However, officers recommend that such funding is given only limited weight in decision making in this case given that the payments would have no direct relationship to making this scheme acceptable in planning terms and Government guidance in the PPG states that it is not appropriate to make a decision based on the potential for the development to raise money for a local authority or other Government body.

Other Matters

8.88 The applicant has offered to bind the remainder of the field to the west with a covenant via a Section 106 agreement or unilateral undertaking that restricts any further development. However, such an agreement cannot prevent a planning application being submitted on the site, and any future proposals for development on adjacent land would be assessed on their own merits. Therefore officers afford this no weight in the assessment of the application.

8.89 Third parties have noted that the site is on high quality agricultural land and that this should be preserved. The site has a grade 3 agricultural land classification, whilst high quality agricultural land is either grade 1, 2 or 3a. It is not clear whether the land is grade 3a.

However the amount of land proposed to be developed is relatively small, and is immediately adjacent the built limits of the village. There is no evidence to suggest that developing this site would significantly limit the availability of best and most versatile agricultural land in the area. Therefore it is considered that the site would not result in the unacceptable loss of the best and most versatile agricultural land.

- 8.90 A third party has stated that the pond will soak away due to the low water table in the area. It must be noted that the intention of the pond is to serve as part of a Sustainable Drainage System to manage surface water drainage and run-off from the development. Full details of the design and construction of this can be secured by condition.
- 8.91 It is noted that Kirtlington Golf Club have raised concerns in relation to the potential of golf balls flying onto the site. That said, the golf course is over 200 metres from the site therefore the potential for a golf ball to stray this far from the course is considered to be very low. It is also worthwhile noting that there are existing houses within closer proximity to the golf club.
- 8.92 Reference has been made to the emerging Mid Cherwell Neighbourhood Plan and the policies within this by third parties. However, this emerging Plan is at a very early stage and the policies within this carry very limited weight.
- 8.93 Concerns have been raised from third parties in relation to electricity supply as well as the point that there is an overhead electricity line on the site. This is a matter for the utilities provider and is not a material planning consideration. The matters of devaluation of property price, cost of building the proposal and loss of private view, which were also raised as concerns by third parties, are not material planning considerations in this case.

9. CONCLUSION AND PLANNING BALANCE

- 9.1 The overall purpose of the planning system is to seek to achieve sustainable development as set out within the Framework. The three dimensions of sustainable development must be considered, in order to balance the benefits against the harm in order to come to a decision on the acceptability of a scheme.
- 9.2 The proposal seeks permission for a residential development on the edge of a Category A Village. The principle of the proposal therefore falls to be considered against Policy Villages 2 of the Cherwell Local Plan and a full range of other policies relating to detailed matters. Policy Villages 2 sits alongside the wider strategy of the Local Plan which seeks to direct residential development to the most sustainable settlements in the District and it includes a number of criteria in order to assess this.
- 9.3 In terms of the environmental dimension, whilst the proposed development on the site would not cause wider landscape harm, it is considered that the proposal would cause localised harm to the rural setting of the village as well harm to the immediate locality as a consequence of the development on this agricultural land. Due to the relationship with existing development it would also fail to authentically integrate with the linear settlement pattern of the village. However, the Local Plan allows for some housing development (for 10 or more dwellings) at the District's most sustainable villages, such as Kirtlington, under Policy Villages 2 and it is very likely that some environmental harm will occur as a result of such residential proposals. In this case due to its small scale, linear layout of the site, and the amount of undeveloped agricultural land remaining to the west, it is considered that the proposal would

not cause significant adverse landscape impacts or significant harm to the character and appearance of the area, and acceptable details can be secured at reserved matters stage.

9.4 In terms of the social dimension, it is considered that the proposal would cause some harm to the enjoyment of users of the nearby Public Rights of Way of Mill Lane. That said, the proposal would bring some social benefits including a contribution to the District's ongoing five year supply, and in general spatial terms the site is well located to the village and its services and facilities which would be accessible by walking and cycling. Furthermore, the proposal would not represent an undesirable overconcentration of new housing development in Kirtlington that would prejudice a more even planned and sustainable distribution of housing development across the District's Category A village. New development also commonly brings economic benefits including some construction opportunities.

9.5 Thus, it is considered that the economic and social benefits of the scheme, which is in compliance with the housing strategy of the recently adopted Cherwell Local Plan Part 1, would outweigh the environmental and social impacts. It is therefore concluded that the proposal constitutes sustainable development and is in accordance with Policy Villages 2 of the Cherwell Local Plan Part 1, and the application is therefore recommended for approval.

9. RECOMMENDATION

That permission is **granted**, subject to:

- a) It being demonstrated that the footpath link proposed to connect the site to Hatch Way and Mill Lane would not cause unacceptable harm to the protected Beech Trees;
- b) It being demonstrated that refuse vehicles would be able to adequately service the site;
- c) The applicants entering into a Section 106 agreement to the satisfaction of the District Council to secure financial contributions as outlined in paragraphs 8.53 and 8.83 of the report;
- d) The following conditions:
 - 1. No development shall be commenced until full details of the layout, appearance, scale and landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.

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 Part 3 of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

- 2. In the case of the reserved matters, the application for approval shall be made not later than the expiration of three years 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 Part 3 of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

3. The development to which this permission relates shall be begun not later than the expiration of two years 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 Part 3 of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

4. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the details provided by the following plans:

- Application Form submitted with the application; and
- Drawing Numbers 009a and 012 submitted with the application.

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

5. The development hereby approved shall proceed strictly in accordance with the recommendations and mitigation measures outlined in Section 7 of the Flood Risk Assessment (ref: MA10405-FRA-R02 dated November 2016) prepared by Millward received accompanying the application unless otherwise previously approved in writing by the Local Planning Authority.

Reason - To protect the development and its occupants from the increased risk of flooding and to safeguard against an increase in flood risk elsewhere, in order to comply with Policies ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

6. The development hereby approved shall be carried out in accordance with the recommendations set out in section 4 of the Ecology Report (ref: SF2556) by Smeeden Foreman dated July 2016.

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan Part 1 and Government guidance contained within the National Planning Policy Framework.

7. Prior to the commencement of the development hereby permitted a desk study and site walk over to identify all potential contaminative uses on site, and to inform the

conceptual site model shall be carried out by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and shall be submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval that it is satisfied that no potential risk from contamination has been identified.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

8. If a potential risk from contamination is identified as a result of the work carried out under condition 7, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's '*Model Procedures for the Management of Land Contamination, CLR 11*' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

9. If contamination is found by undertaking the work carried out under condition 8, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's '*Model Procedures for the Management of Land Contamination, CLR 11*' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

10. If remedial works have been identified in condition 9, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 9. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

11. Prior to the commencement of the development hereby approved, a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, shall be submitted to and approved in writing by the local planning authority. The scheme shall include:

- Discharge Rates
- Discharge Volumes
- Maintenance and management of SUDS features
- Sizing of features – attenuation volume
- Infiltration in accordance with BRE365
- Detailed drainage layout with pipe numbers
- SUDS
- Network drainage calculations
- Phasing

The scheme shall subsequently be implemented in accordance with the approved details prior to the first occupation of the development, or such other timetable as has been submitted to and agreed in writing by the Local Planning Authority.

Reason - To ensure satisfactory drainage of the site in the interests of public health, to avoid flooding of adjacent land and property and to comply with Policies ESD6 and ESD7 of the Cherwell Local Plan Part 1 and Government guidance contained within the National Planning Policy Framework.

12. Prior to commencement of the development hereby approved, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Construction Traffic Management Plan shall be implemented and operated for the duration of the construction phase of development in accordance with the approved details.

Reason - In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding highway network, road infrastructure and local residents,

particularly at morning and afternoon peak traffic times and in accordance with Policy ESD15 of the Cherwell Local Plan Part 1 and Government guidance contained within the National Planning Policy Framework.

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

Reason - To protect habitats of importance to biodiversity conservation from any loss or damage and to deliver a net gain to biodiversity in accordance with Policy ESD10 of the Cherwell Local Plan Part 1 and Government guidance contained within the National Planning Policy Framework.

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

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 ESD13 of the Cherwell Local Plan 2011-2031 Part 1, C28 of the adopted Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

15. Prior to the commencement of the development hereby approved, full details of the means of access between the development and Mill Lane, including, position, layout, construction, drainage and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to first occupation of the development, the means of access and its vision splays shall be provided and thereafter retained in accordance with the approved details.

Reason - In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Policy ESD15 of the Cherwell Local Plan Part 1 and Government guidance contained within the National Planning Policy Framework.

16. Prior to the commencement of the development hereby approved, full design, layout, construction and surfacing details of the footpath link to be provided between the site and Hatch Way along with details of works to improve the existing public right of way (270/10/10) connecting Hatch Way to Mill Lane shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to first occupation of the development, the footpath link and improvement works shall be provided and thereafter retained in accordance with the approved details.

Reason - In the interests of connectivity and sustainability, to ensure a satisfactory standard of construction and layout for the development and to comply with Policies SLE4, ESD15 and Villages 2 of the Cherwell Local Plan Part 1 and Government guidance contained within the National Planning Policy Framework.

17. Prior to or as part of the first reserved matters submission, an Energy Statement shall be submitted to and approved in writing by the Local Planning Authority. The Energy Statement should:

- be structured according to the energy hierarchy in ESD2 with information provided on each element of the hierarchy
- inform and be reflected in the reserved matters
- include a description of the development, number and type of residential units
- Demonstrate sustainable construction methods as per Policy ESD 3
- Consider the use of renewable energy to supply the development

Thereafter, the development shall be carried out in strict accordance with the recommendations and measures contained in the approved Energy Statement.

Reason - In the interests of sustainability, and to deliver low carbon development to mitigate the impacts on climate change, in accordance with Policies ESD1 to 3 of the Cherwell Local Plan 2011-2031: Part 1 and the National Planning Policy Framework.

18. Prior to the first occupation of the development hereby approved, a Travel Information Pack shall be submitted to and approved by the Local Planning Authority. Thereafter and upon occupation the first residents of each dwelling shall be provided with a copy of the approved Travel Information Pack.

Reason - In the interests of sustainability, to ensure a satisfactory form of development and in accordance with Policies PSD1, SLE4 and ESD15 of the Cherwell Local Plan Part 1 and Government guidance contained within the National Planning Policy Framework.

PLANNING NOTES

1. 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.
2. With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage

should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. The contact number is 0800 009 3921. This is to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.

3. Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.