

**OS Parcel 1424 Adjoining
and Rear Of Jersey Cottage
Heyford Road
Kirtlington**

17/01688/OUT

Applicant: Manor Farm Developments Ltd, S Nicholson, JF Budgett, DC
Grayland, CM Budgett & HC Tylor

Proposal: OUTLINE – Proposed residential development for up to 20 new dwellings and associated works with all matters reserved except access

Ward: Fringford and Heyfords

Councillors: Cllr Ian Corkin
Cllr James Macnamara
Cllr Barry Wood

Reason for Referral: Major Development

Expiry Date: 09 November 2017 **Committee Date:** 23 November 2017

Recommendation: Refusal

1. APPLICATION SITE AND LOCALITY

- 1.1 The application site is located to the northern side of Kirtlington to the east of Heyford Road. It comprises land to the south and east of 1-4 Jersey Cottages and paddock and is approximately 1.26ha in area.
- 1.2 The northern boundary of the site is defined by a hedge, trees and fences. The western boundary comprises a dry stone wall, approximately 1.6m high, with a belt of mature trees within the site. The southern boundary of the site is formed by woodland which extends along the entire southern boundary and merges with a larger block of woodland to the east of the site. The eastern boundary is defined with a post and rail fence which borders Home Farm and its associated agricultural buildings.
- 1.3 To the south of the site, beyond the woodland, is the driveway into Kirtlington Park and parkland; to the north is a paddock forming part of Home Farm. The western side of Heyford Road is characterised by a strong building line of dwellings fronting onto Heyford Road with a couple of cul-de-sacs, Akeman Close and Foxtowns. Conversions of traditional farm buildings have also taken place to the rear of Foxtownsend Farm.
- 1.4 The application site lies partly within the Conservation Area and partly within the Grade II Registered Park and Garden of Kirtlington Park. There are several Grade II listed buildings adjacent to the application site including Home Farm.
- 1.5 There are no Tree Preservation Orders within the site. The site is within 2km of a SSSI (Kirtlington Quarry) and there are records of Spotted Fly catchers, a legally protected species within 250m of the site. There are also records of common swift within 250m which are a UK BAP Priority and Section 41 Species and it abuts a UK BAP Priority and Section 41 Habitat, lowland mixed deciduous woodland. The site lies

within a buffer zone for potentially contaminated land and is a site of medium level archaeological interest.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1 Consent is sought for the erection of up to 20 dwellings with open space and associated works. The application is in outline with only access to be considered at this time. Appearance, landscaping, layout and scale are reserved for subsequent approval.
- 2.2 Vehicular access is to be via the existing access serving Jersey Cottages. It is proposed to upgrade the access to provide footways either side of the estate road with footways either side of the junction with Heyford Road. It is also proposed to provide a road narrowing scheme to the south of the access.
- 2.3 An indicative layout has been submitted showing 20 dwellings served by a single access from Heyford Road with an area of open space to the east, between the development and Home Farm.

3. RELEVANT PLANNING HISTORY

- 3.1 An application was received in 2015 for residential development which included the replacement of Jersey cottages, 15/01128/OUT; this was withdrawn by the applicant. A subsequent application 17/00539/OUT for up to 20 dwellings including the retention of Jersey Cottages was received in March 2017 but this too was withdrawn by the applicant in order to respond to consultation comments and address the concerns of officers regarding the impacts of the development.

4. PRE-APPLICATION DISCUSSIONS

- 4.1 Pre-application advice was sought in December 2016, under application 16/00329/PREAPP, for the development of the site for 20 dwellings. The conclusion of the advice given was that the site was not considered to be acceptable for residential development in the form and scale proposed due to the impact on the visual amenities and rural character of the village and its setting. It was also considered to be harmful to the traditional settlement pattern and would have a significant adverse impact on Kirtlington Park, neither preserving nor enhancing the character and appearance of the Conservation Area nor the setting of Home Farm, a listed building.
- 4.2 Further advice was given that if the scheme received clear support from the Parish Council and a significant number of village residents and any harm to the heritage assets and visual amenities of the area could be shown to be limited and outweighed by public benefits, it may result in a positive officer recommendation being given having regard to the presumption in favour of sustainable development contained within the NPPF.

5. 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. The final date for comments was 03.10.2017, although comments received after this date and before finalising this report have also been taken into account.

5.2 The comments raised by third parties at the time of writing this report are summarised as follows below and the letters can be viewed in full in the application documentation that is published online on the Council's website.

5.3 10 letters have been received objecting to the proposal, including one from a representative of an objector. They are summarised as follows:

- Within Kirtlington Park a Registered Park and Garden
- Within the Conservation Area
- Impact on the setting of the listed building (Home Farm)
- Highway safety and increased traffic
- Impact of loss of trees and dry stone wall to create access on Conservation Area and visual amenities
- Capacity of school
- Low cost housing will be too expensive for local families due to setting
- Noise and pollution from road narrowing
- Impact on wildlife
- Within the overall landscape scheme of park designed by Capability Brown
- Detrimentially affect character and appearance of Registered Park and its setting
- Set a precedent for building within the park
- Less sensitive areas in the village for development
- Impact on rural and linear character of the village
- Visual impact of the development
- Environmental Impact Assessment needed
- Strain on local infrastructure and amenities
- Distance from village facilities and reliance on cars
- Benefits of scheme don't outweigh the harm to the Conservation Area and Registered Park and Garden
- No consideration of alternative sites for development within the village
- Light pollution
- Other sites considered by PC in 2012 for affordable housing still available for development
- Tree planting will not screen the development and will prevent sunlight reaching gardens
- Moving badger setts risks spreading TB
- Letters of support from residents close to another proposed development site

5.4 37 letters in support of the proposal have been received including 3 letters offering support for the principle of the development but objecting to the traffic calming, signage and size of units. The comments are summarised as follows:

- Developer has addressed concerns of villagers
- Current residents can remain in the village
- Supports the local community
- Affordable housing and mix of smaller units
- In keeping with layout of village and does not contradict linear form
- Not visually intrusive/screened by trees
- Materials appropriate for Kirtlington
- Retains Jersey Cottages
- Shows advantages of development by a local family rather than outside developers
- Provision of green space for community use
- Reinstatement of original Town Green
- Not historically part of the historic park

- It is not in the historic park
- Will not adversely affect setting of park
- Improves setting of Home Farm
- Woodland Management Plan
- Meets housing need for village
- Affects the least number of people in the village
- Well contained and not intrusive
- Improve appearance of the village
- Good access and will fit into the public transport system
- Existing trees to be retained
- Wildlife provided for
- Designed to have minimum impact on the character of the village
- Minimal impact on traffic flow
- Within current boundaries of the village
- Minimal harm to residents
- Other development proposals are speculative and do not offer any benefits to the village

5.5 In addition to comments received from the public, three responses have been received from national campaign groups and their comments are summarised as follows:

CAMPAIGN TO PROTECT RURAL ENGLAND (CPRE): **Object.** The applicant has attempted to address some of the objections to the previous application but the majority still apply. CPRE state that they agree with the response from The Gardens Trust especially regarding the legal case where it was stated that heritage assets can be harmed by development in their settings without there necessarily being any visual impact.

CPRE's objections to the previous application (ref: 17/00539/OUT) were as follows:

- Cherwell has a 5 year housing supply
- Represents a mass increase in the size of the village
- Unsympathetic to the character of the village due to its form and to the landscape and due to its location and proximity to Kirtlington Park
- Not sustainable due to the lack of facilities in the village such as the small school, loss of green space and increase in traffic
- It is in the Conservation Area

SAVE: **Comment** that whilst acknowledging some changes have been made to the previous application, their position remains the same:

- This site is not suitable for residential development.
- The application proposes to chip away at the edge of the registered landscape and will damage the integrity of the whole; development outside a park shelter-belt can be just as damaging as development inside

Their objections to the previous application (ref: 17/00539/OUT) were as follows:

- Endorses points made by the Gardens Trust below
- Kirtlington and its park is an outstanding example of the 18th century English genius for architecture and landscape design
- Eroding edges of such landscapes damages their integrity
- Highly damaging to have to have development outside a park shelter-belt as inside, as the protecting trees are intended to be seen from without as well as from within
- Country house parkland is a key feature of English landscape and must be protected from damaging development.

WOODLAND TRUST: **Object** and comment that:

- Long history as a parkland and historic landscape and priority wood pasture and parkland habitat on the site
- Likely that this parkland is of national value for its special trees and therefore there should be no loss of any trees from this historic landscape that would reduce its resilience and continuity of habitat
- Development, even of a small parcel on the edge of the main parkland area would reduce and impact on the overall significance of national assets
- The development will result in direct and/or indirect impacts on areas of priority wood pasture and parkland habitat and important trees and as such is contrary to national policy
- No clear and convincing justification for this development proposal, which would cause substantial harm and loss to Kirtlington Park
- Residential development in the western part of the park will impact on its setting
- Impact on heritage and biodiversity has been inadequately assessed and is contrary to national planning policy
- Tree preservation orders should be made on all significant trees
- Avoidance of damage to trees of amenity values is crucial

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 AND NEIGHBOURHOOD FORUMS

- 6.2 KIRTLINGTON PARISH COUNCIL: **supports** the application in principle for the following reasons:

Continued engagement by the applicants with the PC and villagers to address the concerns has resulted in improvements over the previous application (ref: 17/00539/OUT) in particular:

- Revision to access and entrance
- commitment to implementing a Woodland Management Plan
- mix of housing

The majority of local comment has been in support of the application particularly with regard to the provision of smaller properties.

The Parish Council welcome changes to the access including the reconstruction and restoration of the boundary wall to the full extent of the site's frontage onto Heyford Road with no additional lighting proposed at the access/pedestrian crossing.

The objections raised lie chiefly in concerns from external organisations over the perceived impact on the heritage assets comprising the RPG, Conservation Area and listed building. The Parish Council consider that the site does not form part of the historic park designed by Capability Brown and they consider it to be suitably screened from it. It is within the estate walls but is so well screened from it that development on this site would not harm any original design intent such as vistas or the setting of Kirtlington Park House.

The PC does not consider that it will set any precedent for further development within the RPG.

Several objections focus on seeking alternative sites outside the Conservation Area that might be considered less sensitive. The Parish Council (PC) considers that it is the increased level of control and restriction that is advantageous.

The PC expects that the applicant's engagement with the PC and village would continue to address any items through Reserved Matters and Conditions.

Wish the District Council to consider the following points in consideration of/conditional to the application:

- Provision of the new 'Town Green' restricting dwellings within 35m of the listed building, Home Farm, to reduce perceived harm to its setting and include details on long term ownership of the space and ongoing maintenance,
- Controls to mitigate impact on arboricultural aspects,
- Details for the repair of the wall along the full length of the application site, responsibility and timeframe,
- Schedule of parking spaces

The PC considers this to be the most suitable site in the village to meet Kirtlington's commitments to housing provision for the following reasons:

- Linear aspect of the village
- Strong reasons for defining the settlement's eastern and western boundaries
- Promised improved screening from the road and park
- Proposed dwelling types benefitting those most in need in the village
- It has evolved over time taking into account of local desires and needs
- Other sites have been considered by the Parish and District Councils but have been found compromised in respect of landscape/visual, access and historic issues that outweigh those of this application
- Of the sites in the Housing and Economic Land Availability Assessment (HELAA) none were shown to be suitable for development in Kirtlington

6.3 In addition to their original response to the consultation, a further letter from the Parish Council has been submitted and they comment that:

- Kirtlington Parish Council believes that this is currently the only site available in the village with the ability to accommodate development without adverse impacts on its linear settlement form, or on its heritage assets,
- The access to the site is already established, and reflects the form of access of the majority of other developments in the village,
- It is well screened from Heyford Road by the existing 'estate' wall and by belts of trees,
- They appreciate the commitment shown by the landowners to prepare a woodland management plan and to increase the depth of screen planting along the northern site boundary. In addition they welcome the commitment to restore and maintain the stone walling,
- They believe this would make the northern end of the village more attractive and make a positive contribution to the Conservation Area,
- The Parish Council sees the 'Town Green' and communal space as a benefit to the village and a proportionate response to respecting the setting of the listed building of Home Farm. The Parish Council's previous responses to the District Council have shown (with maps from 1750 to 1997) that they do not consider this site to be part of the historic park, designed by Greening and Capability Brown, nor do the proposals change any current vistas of or within the historic park,

- Kirtlington wants to meet its housing obligations as a Category A village, but wants housing of the right type and in the right location. The current HELAA was unable to identify land that was developable without causing harm. The Parish Council believes this site to be the only one suitable for new homes of the quantity that allows affordable homes but is commensurate with the village's current population size and in keeping with its current settlement form,
- It is important to the village that this proposal offers seven affordable houses and (illustratively) three single storey homes, because housing in Kirtlington has become too expensive for family members of many villagers. The affordable element of this proposal is what will benefit this village the most, as it is recognised that this will keep the families of this village together. Small homes have often been requested in Kirtlington, as elderly villagers wish to downsize in order to stay in the village. They consider that smaller units are needed in the village whether for downsizers or first-time buyers. They insist that of the 20 dwellings proposed, at least seven should be affordable houses and an additional three should be single storey dwellings with priority for those with family connections still in Kirtlington in the allocation of affordable houses. Previous applications, past and currently at appeal, have not offered accommodation of this type so desperately needed in the village,
- They state that it is not typical for people to respond to the District Council in favour of a planning application in the numbers that they do when they oppose one. This application has stimulated positive responses from villagers and the Parish Council considers that the District Council should take note of the individual responses in support from different parts of the village. The landowners of the site are a local family, who are also owners of the adjacent fields. The Parish Council expects the landowners to continue to have an interest that all the conditions are fulfilled,
- The Parish Council is confident that it represents a strong majority in the village. Such support does not happen very often and it is hoped that the District Council will recognise this and look favourably on the application and recommend it for approval.

STATUTORY CONSULTEES

6.4 OCC HIGHWAY AUTHORITY: **Object** on the following grounds:

- Access location is not acceptable
- The kerb build out may give rise to minor safety issues and complaints from adjacent residents
- Drainage infiltration is not proven as viable

In addition they have commented that:

- Traffic impact will be acceptable
- Travel information packs will be required for residents
- A legal agreement is required to secure:
 - Financial contribution of £2,180 to provide improvements to the bus stop infrastructure
 - Section 106 contribution of £1000 per dwelling towards the cost of enhancing the bus service towards a Connector level of service, as defined in the Local Transport Plan 4, with two daytime buses per hour in both directions with some evening and Sunday buses.
- A Section 278 Agreement is also required to be entered into between the applicant and OCC for works in the highway, to include:
 - A new access onto the Heyford Road
 - Improvements to the bus stop infrastructure to include the provision of what is stated above

- Provision of a hardstanding area on the southbound carriageway, to accommodate waiting area for bus stop
 - New pelican crossing as detailed in the Transport Assessment, drawing number 15013/103.
- If consent is granted the Highway Authority has requested the attachment of conditions relating to the access specification, provision of visibility splays, surface water drainage scheme, and preparation and submission of a travel plan along with provision of a Travel Information Pack for each dwelling.

- 6.5 OCC DRAINAGE: **Object:** Concerned about the location of the proposed outfall which is in a location potentially off-site and outside the red line boundary on the "Indicative Drainage Layout" (Drawing No.15013/ 101 REV A). The County is seeking reassurance that this proposal is viable as infiltration is not proven as viable yet at this site. Therefore the requirement for soakage testing will need to be specified as a condition.

Para 9.6.1 of the Applicant's FRA incorrectly states that the Highway Authority do not adopt permeable paving. The County does adopt permeable paving provided it does not drain privately owned surfaces. Therefore the County would request that this incorrect statement be changed in the submitted FRA, to make clear that permeable paving will be used where it is practicable to do so. Otherwise the submitted SuDS strategy does not maximise SuDS potential for the site and a concern was raised that a pond alone does not constitute a SuDS 'treatment train approach' to improve water quality. This is contrary to principles of SuDS design. The provision of a SuDS Management and Maintenance Plan for the development is a requirement.

Consideration at detailed design stage of flood flow-paths in exceedance conditions of the surface water drainage capacity and their management is a requirement of the County as Lead Local Flood Authority.

- 6.6 HISTORIC ENGLAND: **Do not wish to offer any comments** recommending the Council seeks advice from its own specialists. However they have confirmed that the site is within the Registered Park and Garden.
- 6.7 THE GARDEN TRUST AND OXFORDSHIRE COUNTY GARDENS TRUST: **Object.** The new application does not differ markedly from the previous one and so the comments of 23rd March 2017 are all still applicable. The main objection concerns the building of houses on a site within a Registered Park and Garden (RPG) that would set a regrettable precedent. They comment that there does not appear to have been any further exploration of whether other sites not affecting a designated heritage asset were considered, and why a less sensitive area was not chosen in preference.

They also draw attention to a Planning Court Judgement in response to the Heritage Impact Assessment which states that the site has little or no visibility from within the RPG and does not form any part of the way the park is experienced. They state in their response that: *on 22nd June 2017 the Planning Court handed down judgment in Steer v SSCLG, a s.288 challenge to a Planning Inspector's decision to grant planning permission for housing development on a site located less than 1km away from Kedleston Hall, a Grade I listed building standing within a Grade I Registered Park and Garden and co-extensive Conservation Area. The Court agreed with the Claimant and Historic England that the Inspector had "adopted an artificially narrow approach to the issue of setting which treated visual connections as essential and determinative", and that this had amounted to an error of law. The assessment of harm to heritage assets is sometimes conflated with the assessment of visual or landscape harm, but this judgment is a timely reminder that heritage assets can be harmed by development in their settings without there necessarily being any visual*

impact. The Court made substantial reference to Historic England's (HE) Historic Environment Good Practice Advice in Planning No 3, The Setting of Heritage Assets (GPA3) and the guidance it contains about identifying impacts arising from development in the setting of heritage assets, including the staged approach to decision making and the list of 'attributes' (including non-visual attributes) which may help to elucidate its contribution to the significance of the asset. Decision makers should ensure that they are familiar with this guidance. HE's GPA3, whilst not formal government policy, is intended to provide information on good practice in implementing historic environment policy in the NPPF and PPG.

6.8 ENVIRONMENT AGENCY: **No comment to date**

6.9 THAMES WATER: **No objection** with regard to sewerage infrastructure capacity or water infrastructure capacity based on the assumption that foul flows will be connected to the public sewer by gravity (not pumped) and that no surface water flows will be discharged to the public sewer.

NON STATUTORY CONSULTEES

6.10 CDC PLANNING POLICY: **No comment to date**

6.11 CDC DESIGN AND CONSERVATION: **Object**. It is considered that the proposed development is fundamentally unaltered in essence and the additional information supplied in relation to heritage issues (letter from Asset Heritage dated 31st May 2017) does not remove the significant concerns with the principle of development in this location. The full comments in respect of 17/00539/OUT should be taken into account but in essence these are:

The overall, accumulative impact of the proposed development is considered to cause substantial harm to the registered park, conservation area and historic Town Green and less than substantial harm to the setting of the listed buildings of Home Farm, 3-4 Foxtownsend Cottages and the wider setting of the grade I listed Kirtlington Park. There is not considered to be a substantial public benefit to outweigh this harm and there is no evidence produced as part of this application that the proposed benefits of meeting local housing need could not be provided elsewhere in a more suitable location.

6.12 CDC ECOLOGY: **Comments** that the updated ecological reports which have been submitted with the application, which include the updated Extended Phase 1 Habitat Survey, Reptile Survey, and Biodiversity Enhancement Scheme (all dated June 2017) fully address previous comments on the previous planning application.

In particular the reptile survey has identified a low population of grass snake on site, and suitable mitigation measures have been provided within the report to safeguard this species prior to site clearance. Common frog and common toad were also recorded during the reptile survey. Amphibians fall into roadside gully pots, where they become trapped and unable to escape. It is recommended that the opportunity to prevent mortality is included in the preparation of the drainage design of the development.

If at the detailed design stage any buildings or trees require removal, then further bat surveys will be required at this stage to ensure that appropriate mitigation is in place.

The biodiversity enhancement scheme includes appropriate on site enhancements and appropriate locations for bat and bird boxes within the development. Provision for swift nesting also proposed with the inclusion of integrated swift bricks. Due to the presence of badgers using the site for foraging and presence of an inactive badger

hole on site, an updated badger survey should be undertaken approx. 4-6 weeks prior to any works commencing on site in line with the recommendations of the report. A Construction Environmental Management Plan (CEMP) and a detailed Landscape and Ecological Management Plan (LEMP) is recommended to be submitted at any detailed design stage, based on the recommendations within the biodiversity enhancement scheme.

Any new lighting scheme should be sensitively designed to avoid lighting the buildings or foraging/commuting routes, as this could lead to abandonment of the roost.

Conditions are recommended if any approval is granted:

- Mitigation Strategy for badgers
- No Works Between March and August Unless Agreed to protect nesting birds
- Submission and approval of a Landscape and Ecology Management Plan (LEMP)
- Submission and approval of a Construction Environmental Management Plans (CEMP) for Biodiversity
- Use of native species for planting proposals

6.13 CDC BUSINESS SUPPORT UNIT: **No comment** received but the comment on the previous application was that: *It is estimated that this development has the potential to attract New Homes Bonus of £101,926 over 4 years under current arrangements for the Council. This estimate includes a sum payable per affordable home.*

6.14 CDC STRATEGIC HOUSING: **Comments** that the proposal for the affordable housing made as part of the application is acceptable. The proposed mix is:

Affordable Rent

2x 1Bed 2 person maisonette
3 X 2Bed 4 person house

Shared Ownership

2X 2Bed 4 person House

All properties should meet the nationally described space standards
50% of the properties should meet Building Regs Part M4(2).

It is preferred that the parking adjoins the property where possible. Each property of 2 bedrooms and above should have 2 allocated parking spaces.

The registered provider will need to be agreed in advance with the District Council.

6.15 CDC RECREATION AND LEISURE: **Comments** that the following contributions will be sought for off-site Sports, Community and Arts provision:

Sports Facilities Provision:

Off-site contribution towards providing increased outdoor sports facilities capacity within the locality of Kirtlington (actual project to be specified when district sports studies are published later this year). Based on 20 residential dwellings x 2.39 persons x £476.75 per person = £22,788.65

Off-site contribution towards creating additional indoor sports facilities capacity within the locality of Kirtlington (actual project to be specified when district sports studies are published later this year). Based on 20 dwellings x 2.39 persons x £321.49 = £15,367.22

Community Halls Provision:

A contribution towards helping the local community hall accommodate an increase in capacity will be based on a sum per dwelling. These are:

Unit	Contribution
1 bed	£107.14
2 bed	£154.69
3 bed	£240.80
4+ bed	£331.15

Public Art:

For residential development of less than 25 units and non-residential development of less than 100m² developers are expected to explore artistic additions to the development by seeking to employ local artists and crafts people in the construction of features within the site such as signage, gates and door furniture which contribute to the public realm. No financial contribution will be required.

6.16 CDC LANDSCAPE SERVICES: **Comments** that the following contributions are required:

- Provision of an unequipped play area and a financial contribution of £12,394.26 towards maintenance.
- Attenuation basin – financial contribution of £11.63 per sq m towards maintenance.
- Provision of public open space – 1104 sq m minimum provision and a financial contribution of £9.32 per sq m.

6.17 CDC ARBORICULTURALIST: **No objections**

6.18 CDC WASTE AND RECYCLING: **Comments** that accessible and adequate storage for waste and recycling is required. Guidance is 1.8 sqm per household.

A Section 106 contribution of £106.00 per property will also be required

6.19 OCC ARCHAEOLOGIST: **No comment to date**

6.20 OCC PLANNING AND PROPERTY: **No objection.** OCC is not seeking Education contributions to mitigate the impact of this development on early years education, primary, secondary and SEN school infrastructure. Existing school capacity is forecast to be sufficient, taking into account this proposed development and other developments already approved

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)

- VIL1 - Village Categorisation
- VIL2 - Distributing Growth Across the Rural Areas
- VIL4 - Meeting the Need for Open Space, Sport & Recreation
- BSC3 - Affordable Housing
- BSC4 - Housing Mix
- BSC10 - Open Space, Outdoor Sport & Recreation Provision
- BSC11 - Local Standards of Provision - Outdoor Recreation
- ESD3 - Sustainable Construction
- 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 Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18 - New dwellings in the countryside
- C8 - Sporadic development in the open countryside
- C28 - Layout, design and external appearance of new development
- C30 - Design of new residential development
- C33 - Protection of important gaps of undeveloped land
- ENV12 - Development on contaminated land
- TR1 - Transportation funding

7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Kirtlington Conservation Area Appraisal
- Mid-Cherwell Neighbourhood Plan: The Mid Cherwell Neighbourhood Plan remains at an early stage of preparation following the formal designation of

the Neighbourhood Area on 7 April 2015. Consultation on a pre-submission draft Plan was undertaken earlier this year, and further work and consultation will be required prior to submission for examination by a Government appointed Inspector. Therefore only limited weight can be afforded to the Neighbourhood Plan at this stage.

8. APPRAISAL

8.1 The key issues for consideration in this case are:

- Planning policy and principle of the development
- Visual amenity and landscape impact
- Design issues and form of development (including residential amenity)
- Heritage asset and Archaeology
- Transport and access
- Ecology
- Flooding and drainage
- Planning obligations
- Planning balance

Planning policy and principle of the development

- 8.2 The Development Plan for Cherwell District comprises the Cherwell Local Plan 2011-2031 and saved policies in the 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.
- 8.3 The site in question is not allocated for development in any adopted or draft plan currently forming or proposed to form part of the Development Plan. Neither is it proposed for allocation in the draft Mid-Cherwell Neighbourhood Plan. Kirtlington is designated as a Category A settlement in the Cherwell Local Plan 2011-2031 and as such is one of the more sustainable villages in the district, where minor development, infilling and conversions will be permitted within the built-up limits of the village. However the site is not within the built up limits and the proposal does not therefore qualify for consideration under Policy Villages 1.
- 8.4 Saved Policy H18 of the Cherwell Local Plan 1996 restricts new dwellings beyond the built up limits of settlements in open countryside to those which are essential for agriculture, or other existing undertakings, or where dwellings meet an identified and specific housing need that cannot be met elsewhere. Quite clearly the development proposed fails to comply with this policy and in doing so also potentially conflicts with Policy C8 which seeks to prevent sporadic development in the open countryside, which includes new housing development, in the interests of sustainability and to protect the character and amenity of the countryside.

- 8.5 Policy Villages 2 of the Cherwell Local Plan 2011-2031 is concerned with the distribution of housing growth across the rural areas. It states that a total of 750 homes will be delivered at Category A villages in addition to the rural allowance for small site 'windfalls' and planning permission for 10 or more dwellings as at 31 March 2014. In identifying and considering sites particular regard will be given to a number of criteria including:
- Whether land has been previously developed land or is of lesser environmental value;
 - Whether significant adverse impact on heritage or wildlife assets could be avoided;
 - Whether development would contribute in enhancing the built environment.
- 8.6 Notwithstanding the conflict with saved Policy H18 and C8, the provision of some additional housing at Kirtlington could therefore accord with the Development Plan, subject to development proposals being acceptable having regard to these criteria and other material considerations. In this case the application site is, as stated previously, within a Grade II Registered Park, in the setting of Grade II listed buildings and within the Kirtlington Conservation Area. It is also in an area of archaeological interest and has ecological potential as habitat for protected species. The proposal would also extend development into the countryside and would introduce an area of built development in a presently very loose knit part of the village. These issues will be considered further below.
- 8.7 The Cherwell Local Plan 2011-2031 and the saved policies within the Cherwell Local Plan 1996 are considered up-to-date. The NPPF advises that proposed development that conflicts with the Development Plan should be refused unless other material considerations indicate otherwise.
- 8.8 The NPPF is a material consideration in respect of the consideration of this proposal. 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:
- Approve 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 policies in this Framework taken as a whole, or
 - Specific policies in this framework indicate development should be restricted
- 8.9 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 to be up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites'. The Council can currently demonstrate a five year housing land supply and the enhanced presumption in favour of sustainable development set out in the NPPF does not apply. Therefore the test in this case is whether there is conflict with the Development Plan, and if so, whether there are other material considerations that outweigh that conflict such that the proposal can be considered sustainable development.
- 8.10 The other material considerations in this case are expanded upon below however material considerations include whether there is public support for the scheme and whether there are any other more suitable sites for development within Kirtlington.

- 8.11 The Parish Council has advised that they support the principle of the development and a significant number of members of the public have also made representations supporting the scheme. A smaller number of members of the public have made representations objecting to the application including from 3 national campaign groups. However, whilst the number of supporters clearly exceeds the number of objectors and the strength of support from the Parish Council is a consideration which should be given weight, in the context of the issues raised and the Council's current ability to demonstrate a 5 year housing land supply, it is considered that the support for the scheme is not so overwhelming that it would outweigh the conflict with the Development Plan. In particular, as expanded on later in this report, the proposal is considered to cause clear and considerable harm to designated heritage assets, and planning law and case law has held that considerable weight must be given to such harm in the planning process. Furthermore, a significant proportion of the 750 allocation under Policy Villages 2 has already been met, and in the context of a 5 year housing land supply, there is not an overriding need or justification for additional housing in a location which is otherwise considered to be in conflict with the Development Plan.
- 8.12 No other sites have been put forward or discounted as potential development sites within the village by the applicant. However they have undertaken a public consultation exercise prior to the submission of the application and a summary of the results is included in the design and access statement submitted with the application. This shows that 34 people attended an exhibition in the village (January 2017) and 25 responses were received. 76% of these were supportive, 8% were unsupportive with 16% either providing no comments or requesting additional information. The Parish Council in their representation has stated that other sites have been considered by the Parish and District Councils but have been found compromised in respect of landscape/visual, access and historic issues that outweigh those of this application. These issues will be considered further below however the application site is considered to be in a very sensitive location with potential for significant harm to heritage assets and to the visual amenities of the area. The other sites that have been considered for development in the Housing and Economic Land Availability Assessment 2017 were outside the Registered Park and Garden and did not affect the setting of listed buildings. Whilst these sites were discounted, it should be noted that not every Category A Village is necessarily required to accommodate additional housing under Policy Villages 2.
- 8.13 Whilst the Mid-Cherwell Neighbourhood Plan can only be given very limited weight at this stage, nevertheless it is relevant insofar as it shows current thinking on how the various communities within the Neighbourhood Plan Area wish to see their villages develop in the future. Draft Policy PD1 of that document states that residential proposals at Kirtlington for infilling, conversions and minor development will be supported in principle within the settlement areas set out in the plan and any residential development outside the settlement area must have regard to the following criteria:
- The site should be immediately adjacent to the settlement area
 - The site should be previously developed land or of lesser environmental value and not land of best and most versatile agricultural value
 - The development should avoid creating significant adverse landscape and visual impact
 - The development should not give rise to coalescence with any nearby settlement
- 8.14 Policy PD4 of that document requires that development in or adjacent to a Conservation Area should not cause significant harm to the Conservation Area and its

setting, other heritage assets, or historic street and villages views and longer distance vistas.

- 8.15 Whilst the proposed development lies immediately adjacent to the settlement area it will clearly create a significant adverse impact on both the landscape and visual amenities of the area as well as to the setting of the Conservation Area, as considered later in this report. It is not previously developed land and is adjacent to priority habitat. Therefore it is considered that the proposed development does not comply with either draft Policy PD1 or PD4 of the emerging Mid-Cherwell Neighbourhood Plan.

Visual amenities and landscape impact

- 8.16 The application site lies beyond the existing built up limits of Kirtlington in an area of open countryside which forms part of the Grade II Kirtlington Park. Saved Policy C8 of the Cherwell Local Plan 1996 seeks to protect the landscape, preventing sporadic development that would cause harm to the topography and character of the landscape, and the explanatory text states that tight control should be exercised over all development proposals in the countryside if its character is to be retained and enhanced. Careful control of the scale and type of development is necessary to protect the character of these designated areas. Policy ESD 13 of the Cherwell Local Plan 2011-2031 seeks to conserve and enhance the distinctive and highly valued local character of the entire district. The NPPF also advises that the open countryside should be protected for its own sake.
- 8.17 Whilst the development will have a limited effect on the wider landscape it will be visible from the north when entering the village along Heyford Road as well as from Akeman Street and from within the village itself. In your officer's opinion a housing development in this location would have a detrimental impact on the setting of the village introducing an urban feature into this very rural edge to the village. The required upgrading of the access, proposed traffic calming and laying of footways will increase this urbanisation of this part of Kirtlington to the further detriment of the rural character and visual amenities of the area. Therefore the development is considered to be contrary to saved Policy C8 of the Cherwell Local Plan 1996 and Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031.
- 8.18 The proposal will also represent an extension of the village contrary to the established linear settlement pattern of Kirtlington. The Council's Countryside Design Summary SPD suggests that "new development should reinforce the existing street pattern, which creates the basic village form. In linear villages, development should strengthen the dominant street scene and limit backland development." The proposed development does not respect the street pattern as it is primarily a cul-de-sac development extending over 100m to the east of Heyford Road with limited frontage onto Heyford Road, and so is not well integrated with the village and is considered to harm the character of the settlement and visual amenities of the area. Further the Countryside Design Summary SPD states that "development in historic parklands or within their setting must maintain or enhance the specific character, which defines this part of the District." The proposed development does not maintain or enhance the parkland character as it introduces a sizeable new residential cul-de-sac on land that is currently open; this issue is considered further in later sections of this report.

Design issues and form of development (including residential amenity)

- 8.19 The NPPF advises that 'securing high quality and inclusive design goes beyond aesthetic considerations', and that decisions should 'address the connections between people and places and the integration of new development'. Supporting advice in the Planning Practice Guidance (PPG) says that 'achieving good design is

about creating places or spaces that work well; successful integration of new development with their surrounding context is an important design objective, irrespective of whether a site lies on the urban fringe or at the heart of a town centre; proposals should promote accessibility and safe local routes by making places that connect appropriately with each other and are easy to move through; a place should have an appropriate number of routes to and through it; and that designs should ensure that new and existing buildings relate well to each other, that spaces complement one another.'

- 8.20 Access is the only matter to be considered at the current time and with this development proposal accessibility would be limited to the northern part of the site. The development would have a very limited connection with the village and in your officer's view it would appear as a separate housing estate on the edge of the village. It would not be well integrated into the fabric of the built environment of Kirtlington and this would be emphasised by the siting behind the park wall and a mature tree belt. It would therefore fail to comply with the Framework and would not amount to sustainable development. If additional access points were to be created to link the site better into the village the wall enclosing the Park would need to be breached which would have an adverse impact on the character and appearance of the Conservation Area and the setting of the Park.
- 8.21 The illustrative layout submitted with the application has the appearance of a suburban estate with no connectivity through and terminating in private drives, and whilst this is only an indicative plan it is difficult to see how an alternative layout could be achieved without increasing the potential harm to the heritage assets such as introducing further access points into the wall bounding Heyford Road. It further demonstrates the lack of integration with the settlement.
- 8.22 The Design and Access statement indicates that a larger proportion of smaller dwellings are proposed along with single storey dwellings to provide a greater opportunity for people from within the village to live on the development. It also states that the single storey dwellings will help to mitigate any impact on the local heritage assets. Whilst these are positive attributes of the development and further, precise details could be agreed at reserved matters, this is not considered to outweigh the fundamental concern with the siting and form of the development and lack of potential to properly integrate with the existing settlement.
- 8.23 The layout is indicative only however officers are concerned about the proximity of a number of the plots to the trees around the site. In particular officers are concerned about the proximity of the dwellings, and the size of the gardens, to the trees to the southern boundary of the site. It is likely that there will be pressure from the occupiers of those properties to fell/carry out works to the trees due to proximity to and overshadowing of gardens/windows and the nuisance related to leaf loss in the autumn. This weighs against the proposal.
- 8.24 On the matter of whether an acceptable living environment for existing and proposed occupiers can be achieved, whilst the layout is indicative only, due to the relationship with other dwellings it does not appear that the proposal will result in any detriment to the residential amenities of the existing residents nearby, nor to those of the new residents. Adequate details of the layout of plots and the detailing of elevations can be secured at reserved matters stage in this respect.

Impact on the Heritage Assets

- 8.25 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that "in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning

authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses". Likewise section 72 of the same Act states that in considering proposals for development in a Conservation Area, "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area".

- 8.26 Paragraph 132 of the NPPF states that "when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset the greater the weight should be". It continues "substantial harm to or loss of a grade II listed building, park or garden should be exceptional".
- 8.27 There are a number of heritage assets affected by the proposal. The site is partly within the Kirtlington Park Registered Park and Garden and the Kirtlington Conservation Area. There are a number of listed buildings surrounding the site including Grade II listed Home Farm and further to the east, the Grade I Listed Kirtlington Park. It is also within an area of archaeological interest.
- 8.28 The Council's Conservation Officer has objected to the application as it is considered that the proposed development will be harmful to the Registered Park and Garden, listed buildings adjacent to the site and the Kirtlington Conservation Area. It is also considered that there will not be a substantial public benefit to outweigh the harm and there is no evidence produced as part of the application that the proposed benefits of meeting local housing need could not be provided elsewhere in the District in a more suitable location.
- 8.29 Whilst it is argued by the applicant that the application site is distinct from the wider, formal landscaped parkland and as such does not have the same level of significance, it is as a matter of fact within the boundary of the Registered Park and the development is considered to be inappropriate resulting in harm to the Park and its setting. The Gardens Trust has objected to the application as they consider that development on this site will set a regrettable precedent. The loss of this area of park land will in your officers' opinion weaken the understanding of the estate and park land lying behind the stone boundary wall eroding its significance.
- 8.30 Whilst the site lies beyond the tree belt enclosing the formal parkland, currently the site provides a traditional rural setting to the parkland and views across the site on the approach to the village help inform an understanding of the extent of the parkland and its deliberate enclosure. The introduction of modern housing in this location would significantly erode this character and setting and would cause harm to the significance of the Grade II Registered Park and Garden, and the wider setting of Kirtlington Park House.
- 8.31 The proposed development will result in harm to the setting of the Grade II listed Home Farm but it is acknowledged with the provision of the 'green' to the west of Home Farm some semblance of a rural setting for the listed farm is retained. The Heritage Impact Assessment also refers to the removal of unsightly barn structures associated with Home Farm; these are outside the red and blue line areas and do not appear to form part of the proposal and therefore the Council has no control over their removal. In any case, modern farm buildings are not necessarily inappropriate in a rural setting, and the benefits arising from their removal are limited. Works to Home Farm itself could be a public benefit however officers are not persuaded that the proposed residential development is necessary to secure this benefit.
- 8.32 Notwithstanding the concern in principle with development in this location, there are concerns with a form of development at the gateway to the village which is designed to be inward looking and being concealed behind boundaries, and which would

therefore read as a modern self-contained cul-de-sac development. This form of development does not preserve, enhance or better reveal the character and appearance of the conservation area or registered parkland. The proposal does not integrate well with either the historic parkland or the village and is not considered to be a sustainable form of development. As noted earlier in this report the Conservation Officer has also raised concerns about the urbanising effect of the various road improvements proposed along Heyford Road, with harm resulting to the character and appearance of the Conservation Area.

- 8.33 The NPPF states at paragraph 137 that 'Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance'. The proposed development cannot be considered to either preserve or enhance, or better reveal, the significance of any of the heritage assets.
- 8.34 All in all the proposed development is considered to cause significant, albeit on balance less than substantial harm, to the heritage assets and their settings, and it is not considered that public benefits exist that could potentially outweigh this high degree of harm. In particular, whilst the strength of local public support is noted, in the context of the Council being able to demonstrate an up-to-date 5 year housing land supply and given the high level of harm identified to a number of designated heritage assets (which are afforded a high level of protection in planning policy and law), this level of support is not considered sufficient to outweigh the harm in this case.
- 8.35 Furthermore there is no direct link between the proposed development and the long term viability of the heritage assets, other than a proposal to repair the stone boundary wall as proposed in the Heritage Impact Assessment submitted with the application. This is considered insufficient justification for the level of harm proposed.
- 8.36 Turning to archaeology, the site is located in an area of significant archaeological interest to the south of the Roman Road of Akeman Street and to the east of a second possible Roman road, the Portway. Iron Age settlement has been recorded to the north of the site, North of Akeman Street along with Iron Age and Roman burials and two possible Saxon burials have been recorded immediately south of Akeman Street. A gold Roman coin has been recovered immediately south of the proposed site and a second Roman coin has been found in the vicinity. A Roman stone building has been recorded along the line of the Portway, to the south of Kirtlington.
- 8.37 Comments have not been received from the County Archaeologist to date. However, an archaeological evaluation has been submitted with the application which was carried out following the withdrawal of the previous application on the site (15/01128/OUT). The conclusion of the evaluation advises that there is little evidence of any activity within the site dating from late pre-historic to early modern periods. Little evidence of archaeological importance was exposed by the evaluation and none of the geophysical anomalies appear to have been of any archaeological significance. In response to the pre-application submission which included this evaluation the County Archaeologist raised no objection. Therefore, and in the absence of further comment from the County Archaeologist, the impact on archaeology is considered acceptable and could be mitigated by condition.

Transport

- 8.38 Policy ESD15 of the CLP 2031 Part 1 states, amongst other matters, that new development proposals should: *be designed to deliver high quality safe...places to live and work in*. This is consistent with Paragraph 35 of the NPPF which states that: *developments should be located and designed where practical to...create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians*.

- 8.39 The Highway Authority has objected to the application on the grounds that the access and proposed traffic calming are not in an acceptable location and should be moved midway between Akeman Close and Foxtowns Green. In response to the previous application (17/00539/OUT) the Highway Authority raised no objections to the location of the access. Officers have sought clarification on why it is now considered to be unacceptable and Members will be updated at the Committee Meeting as to whether this objection still stands, and whether this should form a reason for refusal. In addition a revised Transport Statement has been submitted by the applicant and comments from OCC Highways are awaited.
- 8.40 Further information regarding drainage is also required in addition to a swept path analysis. However their response also indicates that subject to conditions relating to the submission of a drainage scheme their objection in this regard could be overcome. They have also stated that the traffic calming may give rise to minor safety issues and complaints from adjacent residents and a period of statutory consultation will be required before it is considered appropriate.
- 8.41 The Highway Authority has stated that in terms of traffic generation and impact there is likely to be an insignificant effect on the adjacent highway network as a result of the proposed development.

Ecology

- 8.42 Paragraph 99 of Circular 06/05 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". Likewise Section 40 of the Natural Environment and Rural 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".
- 8.43 The Council's Ecologist has advised that the reptile survey has identified a low population of grass snake on site, largely found in close proximity to the stone wall and tall ruderal habitat along the edge of the eastern boundary of the site and within the woodland in the south of the site. Grass snake are protected against killing and injury under the Wildlife and Countryside Act (1981) and suitable mitigation measures have been provided within the report to safeguard this species prior to site clearance, to include a finger-tip search of vegetation by an ecologist, strimming of the grassland in two stages and ecological supervision of removal and reconstruction of the stone wall habitat.
- 8.44 Common frog and common toad were also recorded during the reptile survey. It has been known for many years that amphibians (frogs, toads and newts) fall into roadside gully pots, where they become trapped and unable to escape. The Ecologist therefore recommends that for all development where populations of amphibians are known to be present on site, that the opportunity to prevent mortality is included in the preparation of the drainage design of the development. As such to avoid amphibian deaths on the road it is recommended that gully pot design is carefully considered within any drainage and road design details.
- 8.45 It is understood no buildings or trees will require removal, however if at the detailed design stage any do require removal, then further bat surveys will be required to ensure that appropriate mitigation is in place.

- 8.46 The biodiversity enhancement scheme includes appropriate on site enhancements and appropriate locations for bat and bird boxes within the development. The provision for swift nesting is also proposed with the inclusion of integrated swift bricks. Due to the presence of badgers using the site for foraging and presence of an inactive badger hole on site, an updated badger survey should be undertaken prior to any works commencing on site in line with the recommendations of the report. It is also recommended that a Construction Environmental Management Plan (CEMP) and a detailed Landscape and Ecological Management Plan (LEMP) be required to be submitted at any detailed design stage, based on the recommendations within the biodiversity enhancement scheme. Also any new lighting scheme should be sensitively designed to avoid lighting the buildings or foraging/commuting routes, as this could lead to abandonment of the roost.
- 8.47 Subject to the above mitigation and enhancement measures being secured by condition, your officers consider that the impact of the development on ecology and biodiversity can be made acceptable.

Flooding and Drainage

- 8.48 Policies ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1 seek to ensure that new development is directed to areas at lowest risk of flooding, and that new development does not increase the risk of flooding elsewhere. The use of sustainable drainage systems to manage surface water run-off within the site is supported.
- 8.49 The applicant has provided a Flood Risk Assessment (FRA) the conclusions of which are that no significant flood risks have been identified and that appropriate surface water drainage management will ensure that the development will be safe from surface water run-off and there will be no increase in run-off from the development.
- 8.50 Thames Water has raised no objections to the scheme on either sewerage infrastructure capacity or water infrastructure capacity.
- 8.51 Oxfordshire County Council as the Lead Flood Authority has advised that a SuDS Management and Maintenance Plan should be provided. They have raised as an issue that the FRA erroneously states that the Highway Authority does not adopt permeable paving so it has not been used in the development. They advise that the FRA should be changed to make clear that permeable paving will be used where it is practicable to do so. Otherwise the submitted SuDS strategy does not maximise SuDS potential for the site. They further advise that a pond alone does not constitute a SuDS 'treatment train approach' to improve water quality. A revised Flood Risk Assessment has been submitted by the applicant and comments on this from OCC and the Environment Agency are awaited.
- 8.52 No other technical evidence has been submitted that contradicts the applicant's evidence. Therefore, provided no further objection is received from either OCC Drainage or the Environment Agency, the scheme is considered to be acceptable in this regard subject to conditions.

Other Matters

- 8.53 An email from the applicant has been received, forwarded by the applicant's agent, raising concerns about the weight being given to the support from the Parish Council. They consider that the PC's letter was the most thorough and considered ever seen from any Parish Council, but not considered to be sufficient by officers to recommend the site for approval. They consider that previous concerns have been taken on board including listening to the concerns of the village residents as well as working closely with the PC. They state that this is the third application for the site following an open

dialogue with local residents and the PC over the course of 2 ½ years with clear evidence of growing public support as follows:

1. 15/01128/OUT – 21 letters of objection & 1 letter of objection from PC
2. 17/00539/OUT – 9 letters of support, 9 letters of objection & Luke warm letter of support from PC
3. 17/01688/OUT – 30 letters of support, 10 letters of objection & incredibly strong letter of support from the PC.

8.54 The applicant goes on to state that of the 10 letters of objection from third parties:

- 3 have come from owners (1 resident in Padbury) of an alternative site which has been refused twice and appeals dismissed.
- 3 have come from owners of another alternative site which has been refused and currently at appeal. (none of them village residents)
- 4 local residents (3 of which are ironically tenants of the landowners).

8.55 Reference is made by the applicant to the alternative site in the village (16/02295/OUT – Mill Lane) which was recommended for approval by officers but subsequently refused by Committee. They comment that the PC did not support the scheme “in any shape or form and it attracted 54 letters of objection from the local residents, offered no social benefits such as social housing or the provision of smaller units & single storey dwellings suitable for the elderly, yet in spite of all this it was recommended for approval which makes no sense when you compare like for like”.

8.56 They also refer to the two applications by Gladman in Kirtlington (90 & 75 units – 14/02139/OUT – 14/01531/OUT) and state that both were “refused and subsequent appeals dismissed, both of these applications received no support from the PC and received 90 & 107 letters of objection respectively”.

8.57 They state that the PC and neighbourhood plan steering group has considered and dismissed alternative sites all as unsuitable and considers the current site as the best option for Kirtlington meeting its own housing needs.

8.58 The weight to be afforded to relevant material considerations in the planning balance is a matter of judgement for the decision maker. Your officers fully recognise the strenuous efforts of the applicant to seek to negotiate positively with the local community and the resulting strength of local support of this latest application, and this must be taken into account in the planning balance. However, for the reasons already expanded on earlier in this report, your officers are of the view that this strength of support is not sufficient reason to overcome the clear conflict with Development Plan policy and the resulting harm to designated heritage assets. Members are, of course, entitled to come to a different judgement on the planning balance in this respect.

Planning Obligations

8.59 The proposal generates a need for infrastructure and other contributions to be secured through a planning obligation to enable the development to proceed. 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, service provision, 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 necessary to make the development acceptable. Obligations are the mechanism to secure these measures.

8.60 In respect of planning obligations the NPPF advises at paragraph 204 that these should only be sought where they meet all 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.

8.61 Having regard to the above the following contributions would be sought in the event that planning permission was to be granted:

Affordable housing

7 units with 70% of these to be affordable rent and 30% to be for shared ownership. The mix would be 2x 1Bed 2 person maisonettes and 3 X 2Bed 4 person house for Affordable Rent, and 2X 2Bed 4 person House Shared Ownership. All properties should meet the nationally described space standards with 50% of the properties meeting Building Regs Part M4(2). It is preferred that the parking adjoins the property where possible. The registered provider will need to be agreed in advance with the District Council.

Off-site sports provision

£22,276.23 - outdoor sports (based on 20 residential dwellings x 2.39 persons x £466.03 per person)

£15021.63 – indoor sports (based on 20 dwellings x 2.39 persons x £314.26)

Community Halls

A contribution towards helping the local community hall accommodate an increase in capacity will be based on a sum per dwelling. These are:

<u>Unit</u>	<u>Contribution</u>
1 bed	£104.73
2 bed	£151.21
3 bed	£235.39
4+ bed	£323.70

Play space - Provision of an unequipped play area and a financial contribution of £12,394.26 towards maintenance

Attenuation basin - a financial contribution of £11.63 per m² towards maintenance

Public open space - Provision of public open space (1104 m² minimum provision) and a financial contribution of £9.32 per m².

Although a contribution toward the provision of public art has also been sought, this is not considered to meet the tests outlined above and in particular is not necessary to make the development acceptable in planning terms.

Oxfordshire District Council

Contribution of £2,180 to provide improvements to the bus stop infrastructure. This contribution is comprised of £1,090 for a pole, flag, and timetable case at the northbound stop and another £1,090 for the same provision at the southbound stop.

Contribution of £1000 per dwelling towards the cost of enhancing the bus service towards a Connector level of service, as defined in the Local Transport Plan 4, with two daytime buses per hour in both directions with some evening and Sunday buses.

9. PLANNING BALANCE AND CONCLUSION

- 9.1 The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 9.2 Economic role – The NPPF states that the planning system should do everything it can to support sustainable economic growth. Whilst there will be an economic benefit provided by the construction of the proposed dwellings, sourcing materials through local building suppliers and future maintenance by local tradespeople along with the use of local services and facilities by future residents which will help to support services and shops etc. it should be noted that employment opportunities within the village and the immediate area are very limited. In sustainability terms therefore, the long term economic benefits of the development are tempered.
- 9.3 Social role – The social role to planning relating to sustainable development is to support strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations. The proposal will deliver affordable housing and the Parish Council's support for the scheme is based in part on this benefit, and the mix of housing that would be provided. Significant weight should be attributed to this benefit. Conversely however, objectors have expressed concern that the development will put strain on the existing village facilities and services, and it has been acknowledged in previous appeal decisions for housing within the village that it is a relatively unsustainable location to accommodate additional housing growth. In addition to this the location of the application site and its form are considered to create a development that is not well integrated with existing streets and public spaces and prevents an appropriate level of interaction with the existing village. This reduces the weight that can be afforded to the social benefits of the scheme.
- 9.4 Environmental role – for development to be acceptable it must contribute to the protection and enhancement of the natural and built and historic environment. These issues have been covered in the sections above. The development is considered to result in serious harm to the various heritage assets affected which, whilst less than substantial, is cumulatively at the high end of harm. Significant weight must be attributed to this in the planning balance.
- 9.5 To conclude the site is not considered to be acceptable for residential development in the form and scale proposed due to its impact on the visual amenities and rural character of the village and its setting. It will also be harmful to the traditional settlement pattern and will have a significant adverse impact on Kirtlington Park and will neither preserve nor enhance the character and appearance of the Conservation Area nor the setting of Home Farm. The proposal is in conflict with the relevant policies of the Development Plan in this respect.
- 9.6 Turning to other material considerations, the Parish Council has advised that they support the principle of the development and a number of members of the public have also made representations supporting the scheme. Paragraph 17 of the NPPF emphasises the importance of planning “empowering local people to shape their surroundings” and so some weight should be afforded to this expression of local support. Nevertheless a number of members of the public, albeit a smaller number, have made representations objecting to the application, and currently the

Neighbourhood Plan is at an early stage of preparation and does not propose the application site for allocation for housing. Paragraph 17 also emphasises, in the same bullet point, the importance of planning decisions being “genuinely plan-led”. The application site is not currently identified as suitable or the preferred option for development in any local or neighbourhood plan, and in the context of an up-to-date 5 year housing land supply, the high level of harm caused by the development to designated heritage assets and other harm identified, and the resulting conflict with the relevant Policies of the Development Plan, is not in your officers’ opinion outweighed by the level of local support that has been expressed.

- 9.7 No other sites have been put forward or discounted as potential development sites within the village by the applicant, but it is noted that there have been a number of schemes put forward on alternative sites to the east of the village that have been dismissed at appeal or refused planning permission. This does not mean however that there could not be other more suitable sites forthcoming, and in the context of a 5 year housing land supply, there is not an immediate pressure to release land for housing that would justify allowing the harm caused by the current proposal. Neither is there a requirement under Policy Villages 2 for every category A village to accommodate some additional housing growth.
- 9.8 In conclusion the development would not constitute sustainable development and the presumption in favour does not apply. In particular the benefits of providing affordable housing and enhanced bus infrastructure along with the level of public support shown for the proposal does not outweigh the serious harm to heritage assets and visual amenities of the area, and the lack of integration with the existing settlement pattern.

10. RECOMMENDATION

Refusal for the following reasons:

1. By virtue of its siting, scale, size and form the proposal fails to respect the traditional linear settlement pattern of Kirtlington extending well beyond its built up limits to the east into open countryside and into Kirtlington Park, resulting in an incongruous and inappropriate form of cul-de-sac development which would relate poorly to the remainder of the village, and cause demonstrable harm to the rural character and setting of the village and visual amenities of the area. Therefore the proposal is contrary to saved Policies H18, C8, C27, C28 and C30 of the Cherwell Local Plan 1996, Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 and Central government advice within the National Planning Policy Framework.
2. The proposed development would by reason of its location, scale, and form cause considerable harm to the character and significance of the heritage assets of Kirtlington Conservation Area and the Grade II Registered Kirtlington Park, and would cause unacceptable harm to the settings of nearby listed buildings in particular Home Farm and the wider setting of Kirtlington Park House. Whilst, on balance, this harm is less than substantial the public benefits do not outweigh this harm. Therefore the proposal is contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 and the National Planning Policy Framework in particular paragraph 17 ‘Core planning principles’ and section 12 ‘Conserving and enhancing the historic environment’, and the Planning Practice Guidance.
3. In view of the harm identified in refusal reasons 1 and 2 above and in the context of the Council being able to demonstrate an up-to-date 5 year housing land supply, the proposal is considered to be unnecessary, undesirable and unsustainable new housing development that would conflict with the criteria for assessing proposals for minor development listed under Policy Villages 2 of the Cherwell Local Plan 2011-2031. Therefore the proposal is unacceptable in principle contrary to Policy Villages 2

of the Cherwell Local Plan 2011-2031 and Central government advice within the National Planning Policy Framework.

4. In the absence of a satisfactory planning obligation the Local Planning Authority is not convinced that the infrastructure required to mitigate the impacts of the development on existing community infrastructure and services, along with the affordable housing directly required as a result of this scheme, will be delivered. This would be contrary to Policies BSC3 and INF1 of the Cherwell Local Plan 2011-2031 and central government guidance within the National Planning Policy Framework.

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