

Case Officer: James Kirkham

Applicant: Harcourt Deddington Limited

Proposal: OUTLINE - Residential development of up to 15 dwellings

Ward: Deddington

Councillors: Councillor Hugo Brown, Councillor Mike Kerford-Byrnes and Councillor Bryn Williams

Reason for Referral: Major development

Expiry Date: 31 August 2019

Committee Date: 15 August 2019

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: REFUSE PERMISSION

Proposal

The application site is a part of an agricultural field located to the east of Deddington. The current application seeks outline permission for up to 15 dwellings on the site. All matters are reserved except access, which would be in approximately the same location as the existing field access onto Clifton Road.

Consultations

The following consultees have raised **objections** to the application:

- Deddington Parish Council, OCC Highways, OCC Archaeology, Lead Local Flood Authority, Historic England (raises concerns), Oxfordshire Architectural and Historic Society

The following consultees have raised **no objections** to the application:

- OCC Education, OCC Property, CDC Ecology, CDC Tree Officer, CDC Environmental Protection, CDC Strategic Housing, CDC Leisure and Recreation, CDC Building Control, Thames Valley Police, Thames Water

29 letters of objection have been received.

Planning Policy and Constraints

The application site is within the setting of Deddington Castle with is a Scheduled Ancient Monument (SAM) which located approximately 90 metres to the south of the site. Deddington Conservation Area also exists approximately 150 metres to the west of the site and the SAM to the south of the site is also within the Conservation Area. The site is identified to be Grade 2 agricultural land and there are records of protected species including badgers within 250m of the site. The site is located within the area designated for Deddington Neighbourhood Plan. The site is also located in an area of elevated arsenic and radon gas (though both are relatively common in the district).

The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

Conclusion

The key issues arising from the application details are:

- Principle of development
- Impact on the character and appearance of the area
- Heritage impact
- Highways
- Residential amenity
- Affordable housing
- Flood Risk and drainage
- Ecology
- Infrastructure
- Other matters

The report looks into the key planning issues in detail, and Officers conclude that the proposal is unacceptable for the following reasons:

1. The proposal would be poorly related to the existing built and natural environment and would result in harm to the setting of the nearby heritage assets.
2. The site is poorly connected to the services and facilities in the village and public transport links to encourage sustainable opportunities for travel.
3. The proposal provides insufficient information regarding archaeology to fully understand the impacts of the development.
4. The proposal does not adequately demonstrate safe and suitable access.
5. The proposal fails to demonstrate an appropriate drainage strategy for the site.
6. The proposal does not provide or secure open space or affordable housing on the site or mitigate the impacts of the development on off-site infrastructure such as education, community facilities etc.

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is an agricultural field located to the south of Clifton Road to the east of Deddington. The land includes a hedgerow with trees to the frontage and an agricultural access. A former agricultural building, which obtained planning permission for use as a MOT testing and incident car repairs, exists to the west of the site along with a grouping of trees. A small grouping of dwellings in a linear arrangement exists immediately to the west of the site which are detached from the main built limits of Deddington. There are a number of dwellings and a commercial area to the north of the site, arranged in loose and sporadic arrangement with undeveloped fields separating them. The site falls gently in south easterly direction. The southern boundary is currently open with the larger agricultural field.

2. CONSTRAINTS

- 2.1. The application site is within the setting of Deddington Castle with is a Scheduled Ancient Monument (SAM) which located approximately 90 metres to the south of the site. Deddington Conservation Area also exists approximately 150 metres to the west of the site and the SAM to the south of the site is also within the Conservation

Area. The site is identified to be Grade 2 agricultural land and there are records of protected species including badgers within 250m of the site. The site is also located in an area of elevated arsenic and radon gas.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The current application is made in outline, with all matters reserved except access, for up to 15 dwellings on the site. The plans show the provision of a new access with footways either side in approximately the same location as the existing agricultural access.
- 3.2. An indicative site layout plan has been submitted which shows the provision of 15 dwellings on the site, arranged in a cul-de-sac arrangement with the dwellings back onto Clifton Road, and consisting of 10 detached dwellings, 3 terrace dwellings and a pair of semi-detached dwellings.
- 3.3. *Timescales for Delivery*: No indication has been provided on the timescale for deliver of the site.

4. RELEVANT PLANNING HISTORY

- 4.1. There is no planning history directly related to the site. The following planning history is considered relevant to the current proposal:

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
13/01941/OUT	Outlined – Erection of 7 dwellings	Appeal dismissed

- 4.2. The above related to a site on St Thomas Street in Deddington. The key issue at the time was the impact on the setting of Deddington Castle and the Conservation Area. The appeal was dismissed because of the proposal's impact on the setting of heritage assets.

5. PRE-APPLICATION DISCUSSIONS

- 5.1. No pre-application discussions have taken place.

6. RESPONSE TO PUBLICITY

- 6.1. 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 (amend as appropriate). The final date for comments was **1st August 2019** although comments received after this date and before finalising this report have also been taken into account.
- 6.2. 29 letters of objection have been received by residents. They can be summarised as follows:
- Principle of development: Site does not form part of the Neighbourhood Plan; the site is too remote, poor accessibility and pedestrian connections to centre of village and services; no need for the development
 - Impact on form and character of the village: Impact on character and appearance and visual amenity of area including issues of pattern of development, layout, density and setting of the village. Harm to the identity

of the village. Harmful intrusion into the open countryside and harmful to the boundary of village. Layout, design, appearance and materials inappropriate for the site

- Impact on heritage assets: Impact on Conservation Area and setting of Deddington Castle including similar appeal in the village.
- Impact on highway safety: Access is unsuitable given proximity to other junctions and unsafe given vehicle speeds. Traffic generation and impact on highway capacity.
- Impact on neighbours from noise and disturbance, light pollution, loss of light, loss of privacy and overshadowing
- Impact on local amenities (including Doctors / School)
- Request for contributions to Holly Tree Club.
- Foul water disposal
- Loss of trees
- Impact on ecology and wildlife
- Impact on archaeology
- Would create a precedent for similar developments in Deddington and the surrounding area. Development allows for future development further to the south.

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

7. RESPONSE TO CONSULTATION

7.1. 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

7.2. DEDDINGTON PARISH COUNCIL: **Objects** on traffic and access ground. However, if granted the following should be required: an archaeological survey; a traffic survey including consideration of the access point; upgrading of the pavement into Deddington; mitigation from headlights shining into neighbour; traffic calming measures; demonstrate how drainage will be dealt with; a pedestrian route into Earls Lane and provision of play area. Also requests several financial contributions if the application should be granted including to early years education, library, day care, Windmill Community Centre, sports field, play area and contributions to the bus service and electric charging points. Also requests traffic calming (including vehicle activated sign and relocation of 30mph speed limit, provision of fibre optic cable and affordable housing.

CONSULTEES

- 7.3. OCC HIGHWAYS: **Objects** due to lack of opportunities for sustainable travel to and from the site and lack of continuous and safe walking route to village centre, facilities and bus stop.
- 7.4. The proposed development is situated 830 metres from the village centre and nearest bus stop, which means that the opportunities for sustainable travel to and from the site are limited. It is connected to the village by a sub-standard footpath that is narrow, unlit and terminates where there is not a safe crossing point to the opposite side of the highway. This footway, which extends along the south side of the B4031 to its junction with Earls Lane. From just west of the junction, there is a footway on the north side of the B4031 towards the village centre. The Deddington Neighbourhood Plan aspires to promote more sustainable movement and transport patterns, through both the location of development and reduced dependency on the motor car as a mode of travel, greater use of public transport and an increased number of journeys on foot and by bicycle.
- 7.5. There is no bus service along the B4031 between Clifton and Deddington, and, given the location of this development 830m from the nearest bus stop (OCC guidance is that dwellings should be within a 400m walk distance of bus stops), and the poor walking route, this would suggest it is unlikely many trips would be made on foot, and, although some may be made by bicycle, it is likely the majority would be by private car (**Reason for objection**). Should the Planning Authority be minded to grant permission, improvements must be made to create a continuous, high-standard footway with a safe crossing point, linking to existing footways towards the village centre
- 7.6. Safety of pedestrian routes - A footway exists on the southern stretch of the Clifton Road from Deddington to Clifton. However, this footway is narrow, substandard in locations, unlit and there is no safe crossing point from the southern side of the footway where it terminates and then begins again on the northern side of the road.
- 7.7. From visiting the site, due to poor visibility at the curvature of the road as it enters the main village past the Earls Lane junction, it is unlikely to be possible to introduce a safe crossing point to allow safe pedestrian connectivity into the main part of the village. Further, introducing a crossing further towards Clifton and on the eastern side of the Earls Lane junction would not be effective as no footway existing along Earls Lane in this location.
- 7.8. Additionally, the shortest route to the primary school is via Earls Lane which as stated above has no footway and is a rat run through the village to avoid the village centre and the four-way signalised junction. This is not considered a safe walking route (**Reason for objection**).
- 7.9. Vehicle Speeds and Access - Accident data obtained for the standard 5-year window that is used to access whether an access can be considered safe from the Council's Traffic and Road Safety Team indicates road speeds in this area are high, with speed being a contributing factor to the accidents that occurred.
- 7.10. During my site visit where I spent approximately half an hour at the site, and despite wearing high visibility clothing I observed many vehicles that appeared to be exceeding the posted speed limits in both directions. Neither the Design and Access Statement or Planning Statement refers to there having been a speed survey conducted at the site to indicate the actual speeds in the vicinity of the site.
- 7.11. The proposed access to the site is taken off Clifton road via what is currently a farm access to an overgrown agricultural field. Visibility in both directions is appropriate for the posted speed limits. However, it must be adequate for actual speeds, and no

speed survey has been carried out to demonstrate this. A drawing must be provided showing achievable visibility splays to meet the requirements for actual speeds. **Reason for objection.** Further, because of the straight alignment of the Clifton Road, there is the potential to approach the site at very high speeds and therefore traffic calming should be provided as part of the S278 scheme (see below).

- 7.12. Site layout - The application is for outline permission with all matters reserved, except for access. Therefore, the layout will be considered in greater detail at a later stage.
- 7.13. If the LPA is minded to grant planning permission, this development should contribute to the wish list by providing traffic calming measures on the B4031, for the reasons stated above, and that the 30mph speed limit is extended further out towards Clifton, with a Vehicle Activated Sign These should be installed by the developer under S278 along with the necessary footway works. The detail of the traffic calming measures should be agreed. Request legal agree to section access, footway improvements, traffic calming, relocation of 30mph limit and VAS. Also request contributions towards consultation of TRO and traffic calming.
- 7.14. LEAD LOCAL FLOOD AUTHORITY: **Objects.** Insufficient drainage/flooding/SuDS information provided to undertake a full technical assessment of the proposal. The proposal is not aligned with Local or National Standards.
- 7.15. OCC EDUCATION: **No objections** subject to conditions securing financial contributions towards early years provision, primary education (Christopher Rawlins CE Primary) and secondary education (towards The Warriner School).
- 7.16. OCC PROPERTY: **No objection** subject to a contribution towards expansion of capacity at Deddington Library including the provision of additional book stock.
- 7.17. OCC ARCHAEOLOGY: **Objects.** The site is located in an area of archaeological potential 130m north of the scheduled ancient monument of Deddington Castle, a C11 motte and bailey castle and a C12 enclosure castle (SM 21807). The motte and its W bailey survive as an impressive group of earthworks, with the enclosure castle built into the NE corner. Although the scheduled area of the castle is outside of the proposed development area it is possible that aspects of the castle could survive within the development area.
- 7.18. The site is also located immediately south of a possible Romano British settlement site consisting of a series of probably roman pits recorded in the 1870s. A burial was also reported. The proposal site is also located 290m SW of a medieval shrunken village (PRN 9437) which survives as a series of earthworks related to the holloway and crofts. The holloway is thought to be an original continuation of the line of Clifton Road. As there is evidence of medieval settlement along this possible continuation of the road then it is possible that further medieval settlement existed along the current Clifton Road, on the northern side of the proposed development area. This development could therefore impact on previously unknown archaeological features related to the medieval settlement and the scheduled castle.
- 7.19. The applicant has submitted a desk-based assessment for the site which highlights that the site has the potential to contain Roman and Medieval deposits. The assessment also highlights that an archaeological evaluation will be required to ascertain the presence and significance of archaeological remains if present within the site.
- 7.20. In accordance with the National Planning Policy Framework (NPPF 2019), recommend that, prior to the determination of this application the applicant should

therefore be responsible for the implementation of an archaeological field evaluation. The results of this evaluation will need to be submitted along with any planning application for the site and should aim to define the character and extent of the archaeological remains within the application area, and thus indicate the weight which should be attached to their preservation. This information can be used for identifying potential options for minimising or avoiding damage to the archaeology and on this basis, an informed and reasonable decision can be taken.

7.21. Historic England will need to be formally consulted to provide comment on any impacts on the setting of the scheduled monument of Deddington Castle.

7.22. HISTORIC ENGLAND: **Raises concerns.**

7.23. The Significance of a heritage asset is normally considered to be the sum of its heritage values - evidential, historic (illustrative and associative), aesthetic and communal. Consideration of significance concerns not just the heritage asset itself, but also any contribution made to significance by the setting of the asset, where setting means the environs in which the asset is experienced. The earthworks of Deddington Castle, and the results from excavations, indicate that it is an 11th-century Norman motte and bailey castle, and that a 12th-century enclosure castle was constructed within the earlier fortification. The western bailey survives as an extensive raised area surrounded by high outer banks and an external ditch. The high mound of the motte is in the north-east corner of the western bailey and survives partially, having been cut through for the creation of the enclosure castle. A second bailey to the east of the motte is mainly known from aerial photographs but some earthworks survive. The castle is one of the best preserved earthwork monuments relating to the period in Oxfordshire. Unlike other similar castles, it appears to have been located remotely from the original village of Deddington and this separation has been perpetuated over time. The isolation may be connected with its status as the location of the 'caput' (lead site) of an 'honour' or estate, possibly of Odo, Bishop of Bayeux and the brother of William I.

7.24. The scheduled castle has very high evidential value - archaeological remains relating to construction and use of the castle, including waterlogged remains within the ditches. The proposed development would not impact on these. The castle also has high historic (illustrative) value in demonstrating how the Normans deliberately dominated the surrounding landscape militarily and physically by choosing an elevated site, and how the castle stands separate from the village - the existing mainly open setting contributes to that significance. Although there is tree cover around the edges of the castle, there are still places where its dominant position can be appreciated, and the views are improved during the winter when the trees are not in leaf.

7.25. The communal value of the castle is clear, as a valued asset - the site is much used for walking and is well-visited. Views out from the castle across the open countryside are clearly part of what is valued and enjoyed by visitors. The central motte area is in the care of the Secretary of State and is managed by English Heritage.

7.26. Impact - There will be no impact on the evidential value of the scheduled monument.

7.27. There would be some negative impact on the historic (illustrative) value of the monument caused by the construction of the housing in what is currently an open field, causing a change to the setting. While it is true that there are already some buildings west of the application site and beyond Clifton Road, it is considered further infill as incremental negative change to the mainly open setting. In summer with the trees in leaf there are only small glimpsed views of the application site from

the top of the motte - the applicant's Archaeological Desk-based Assessment (RPS July 2019) is incorrect in saying that the site cannot be seen at all. These views will be clearer in winter (the trees are mainly deciduous) and Historic England guidance on setting (referenced above) is that seasonality and impermanence of screening should be taken into account. The current management of the monument has led to quite dense tree growth, but future good management would require some shrub clearance and thinning of trees (tree roots, and possible windthrow, are damaging to archaeological deposits and earthworks) including some of the many trees currently being choked by ivy growth. It is therefore likely that more open views will be available in the future.

- 7.28. The DBA proposes tree screening for the new development as mitigation. While this may provide some screening, this is a long-term measure, and that existing buildings show it is not particularly effective as the upper parts of buildings are still visible, particularly when seen from the raised viewpoints on the motte and west bailey. The new development would still read as housing when viewed, and not as rural space.
- 7.29. Regarding views towards the castle from Clifton Road and the development site, it is currently not possible to appreciate the castle from these locations. It may be that winter conditions or a change in tree management would alter this, making the top line of the motte and bailey faintly discernible, but without further evidence it is not possible to be sure. Either way, it is unlikely that this would significantly change my conclusion below on the level of harm.
- 7.30. Taking into account the impact discussed above, it is considered that the development would cause harm, but certainly less than substantial harm, to the significance of the scheduled monument (as contributed to by its setting). This agrees with the conclusions of the applicant, whose Heritage Statement states that the development will cause less than substantial harm. The concept of less than substantial harm is covered in the National Planning Policy Framework (NPPF) 2019, paragraphs 193, 196. There is no formal scale for less than substantial harm, but the harm caused will certainly be at the lower end of the range. Your local authority will need to balance this harm against any public benefit from the development, as required by the NPPF, paragraph 196. Paragraphs 193 and 194 of the NPPF require that great weight should be given to the conservation of a designated asset, irrespective of the level of harm, and that any harm should be fully justified.
- 7.31. The Deddington Conservation Area includes the entire area of Deddington Castle, and the mainly open setting of the castle is clearly also the setting of this part of the conservation area and contributes to its significance. Therefore advises that the same level of less than substantial harm would be caused to the conservation area and this should also form part of the balancing exercise.
- 7.32. The application site has considerable potential to contain undesignated heritage assets in the form of archaeological remains. Historic England endorses the advice from Oxfordshire County Council that the application should not be determined until an archaeological evaluation (trial trenching) has been carried out. Until this has been done, and the results made available, it is not considered the application is compliant with the NPPF, paragraph 189.
- 7.33. CDC CONSERVATION: **Comment awaited.**
- 7.34. OXFORDSHIRE ARCHITECTURAL AND HISTORICAL SOCIETY: **Objects.** The proposed development would be harmful to the setting of the SAM by bringing urban development too close to the rural nature of the monument.

- 7.35. CDC LANDSCAPE: **Comments.** A landscape buffer should be planted to the south of the site with the SAM to help screen the development. A local area of play is required. The site is visually contained by the frontage planting and planning on the western boundary and this should be retained. An arboricultural plan indicating the extent of the root protection areas must be submitted.
- 7.36. CDC ARBORICULTURE: **Requests condition** for method statement in relation to the trees.
- 7.37. CDC ENVIRONMENTAL PROTECTION: **No objection** subject to conditions on noise mitigation from traffic noise, land investigation regarding contamination, air quality impact assessment and provision of ducting for EV charging points.
- 7.38. CDC STRATEGIC HOUSING: **No objection** subject to the provision of 35% affordable dwellings. Of these 5 affordable units, we recommend the following indicative mix of tenures and sizes:
- Rented - 2 x 1b2p Maisonettes and 2 x 2b4p Houses
- Shared Ownership - 1 x 2b4p House
- 7.39. Also outline the standards the dwellings would be expected to meet.
- 7.40. CDC LEISURE AND RECREATION: **Request contributions** for offsite outdoor and indoor sports facilities and community halls in accordance with the Development Contributions SPD.
- 7.41. CDC BUILDING CONTROL: A Building Regulations application will be required.
- 7.42. THAMES VALLEY POLICE: Comment. The development should follow the Secure by Design principles.
- 7.43. THAMES WATER: **No objection.** Request informative be added in respect of measures to discharge ground water into the public sewer. Advise that in regard to waste water network and waste water process infrastructure capacity there is no objection to the proposal. There is also no objection with regard to the water network and water treatment infrastructure capacity.

8. RELEVANT PLANNING POLICY AND GUIDANCE

- 8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2. 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
- BSC4 – Housing Mix
- 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
- 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
- C8 – Sporadic development in the open countryside
- C25 – Development affecting the site or setting of a scheduled ancient monument
- C28 – Layout, design and external appearance of new development
- C30 – Design of new residential development
- C33 – Local gaps
- ENV1 – Environmental pollution
- ENV12 – Potentially contaminated land

8.3. Other Material Planning Considerations:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Annual Monitoring Report (AMR) 2018
- Developer Contributions SPD
- Cherwell Residential Design Guide SPD

8.4. Deddington Neighbourhood Plan is currently being developed. Consultation on the draft (submission) plan ended on the 21st December 2018 and the plan has now been submitted to the independent examiner to consider. The examiner has raised a number of initial queries and clarifications. This plan and its policies therefore hold limited weight in decision making at the current time as it will need to be subject to examination by the independent inspector and then subject to a referendum. The most relevant policies are:

- DED - HOU1: Sustainable housing growth
- DED - HOU2: Housing location
- DED - HOU3: Housing mix
- DED - HOU4: Housing design and village character
- DED - HOU5: Estate infrastructure
- DED - HOU6: Affordable housing
- DED - ENV1: Protection and enhancement of the historic environment of the Parish

- DED - ENV2: Protection and enhancement of the natural environment of the Parish
- DED - ENV3: Infrastructure requirements
- DED - ENV4: Impact of street lighting
- DED - COM1: Inclusive communities
- DED - COM2: Community facilities and services
- DED - COM3: Children's play areas and public open space
- DED - COM4: Integrated approach
- DED - COM5: Modernisation of facilities
- DED - COM6: Open spaces, sport and recreation
- DED - MOV1: Transport impacts
- DED - MOV2: Estate roads
- DED - MOV3: Parking
- DED - MOV4: Non-car movement

8.5. Council Corporate Priorities

Cherwell District Council's Business Plan for 2019-20 sets out the Council's three strategic priorities which form our overarching business strategy. Below these are the key actions for the year 2019–20. This is a strategy which looks to the future taking into account the priorities and aspirations of the communities who live and work in the district.

The three corporate priorities are to ensure the District is “Clean, Green and Safe”, that it supports “Thriving Communities & Wellbeing”, and is a District of “Opportunity & Growth”. All three priorities are of significance to the determination of planning applications and appeals. Below these priorities, the key actions which are of most relevance to planning applications and appeals are: (1) deliver the Local Plan; (2) increase tourism and increase employment at strategic sites; (3) develop our town centres; (4) protect our built heritage; (5) protect our natural environment; (6) promote environmental sustainability; (7) promote healthy place shaping; (8) deliver the Growth Deal; (9) delivery innovative and effective housing schemes; and (10) deliver affordable housing.

The remaining key actions may also be of significance to the determination of planning applications and appeals depending on the issues raised.

The above corporate priorities are considered to be fully compliant with the policy and guidance contained within the National Planning Policy Framework and National Planning Practice Guidance.

9. APPRAISAL

9.1. The key issues for consideration in this case are:

- Principle of development
- Impact on the character and appearance of the area
- Heritage impact
- Highway safety
- Residential amenity
- Affordable housing
- Flood Risk and drainage
- Ecology
- Infrastructure
- Other matters

Principle of Development

- 9.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the District comprises the adopted Cherwell Local Plan 2011-2031 and the saved policies of the Cherwell Local Plan 1996.
- 9.3. The National Planning Policy Framework (NPPF) explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs. Paragraph 7 of the NPPF sets out the Government's view of what sustainable development means in practice for the planning system – the three strands being the economic, social and environmental roles. It is clear from this that as well as proximity to facilities, sustainability also relates to ensuring the physical and natural environment is conserved and enhanced as well as contributing to building a strong economy through the provision of new housing of the right type in the right location at the right time.
- 9.4. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that conflicts with the Local Plan should be refused unless other material considerations indicate otherwise (Para. 12). Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015 and can demonstrate a 5 year housing land supply.
- 9.5. The Written Ministerial Statement of 12 September 2018 now considers important policies for determining the application to be out of date only where a 3 year supply of deliverable sites cannot be demonstrated.
- 9.6. The Cherwell Local Plan 2011-2031 seeks to allocate sufficient land to meet District Wide Housing needs. The overall housing strategy is to focus strategic housing growth at the towns of Banbury and Bicester and a small number of strategic sites outside of these towns. With regards to villages, the Local Plan notes that the intention is to protect and enhance the services, facilities, landscapes and natural and historic built environments of the villages and rural areas. It does however advise that there is a need within the rural areas to meet local and Cherwell-wide needs.
- 9.7. Policy Villages 1 of the CLP 2031 provides a framework for housing growth in the rural areas of the district and groups villages into three separate categories (A, B and C), with Category A villages being considered the most sustainable settlements in the District's rural areas which have physical characteristics and a range of services within them to enable them to accommodate some limited extra housing growth. Deddington is a Category A village.
- 9.8. In order to meet the areas housing needs Policy Villages 2 of the CLP 2015 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"*. This Policy notes that sites will be identified through the preparation of the Local Plan Part 2, through the preparation of the Neighbourhood Plan where applicable, and through the determination of applications for planning permission.
- 9.9. Policy Villages 2 then sets out that, when 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.”*

9.10. The Deddington Neighbourhood Plan has been submitted for examination so is only considered to carry limited weight in decision making at the current time. However, there are several policies relevant to the principle of the development. Policy DED – HOU1 of the emerging Neighbourhood Plan indicates the delivery of approximately 50 new dwellings will be supported in Deddington during the plan period (2015-2031) comprised of developments of 10 or more dwellings. It also states the cumulative total number of dwellings which may be built on any one site during the plan period shall not exceed 20. Policy DED-HOU2 also provides criteria-based policy to assessing new residential development within Deddington.

Assessment

- 9.11. The site is not allocated for development in any adopted or emerging policy document forming part of the Development Plan and the site sits outside the built up limits of the village given its physical and visual relationship to the existing built form. The applicant contests this assessment. However, officers consider that sites must have a clear urban grain and close relationship with the existing built up limits of villages to be considered as being within the built limits. In this case the application site clearly forms part of a wider agricultural field, which sits away and separate from the established built up limits of the village. Whilst there is sporadic development either side of the site along Clifton Road which has occurred over a number of years and the open fields between the building and separated located from the main built form of the village means officers conclude the site is not considered to be within the built limits of the village.
- 9.12. Deddington is recognised as a ‘Category A’ village and is one of the larger villages in the District with a relatively wide range of services and facilities compared to other Category A settlements. It has a relatively regular bus service (S4 route – approximately hourly), which runs between Banbury and Oxford. Overall therefore it is considered to be one of the more sustainable Category A villages.
- 9.13. The acceptability of the proposal therefore needs to be tested against the criteria listed in Policy Villages 2 of the CLP 2015 (as set out above), as well as other material planning considerations. However, in the first instance it is important to consider the matter of scale and quantity of development at Deddington, is in accordance with the overarching housing strategy of the CLP 2031.

- 9.14. The Council's AMR 2018 (published December 2018), identifies that at 31 March 2018 developable sites existed for 746 homes at Category A villages under Policy Villages 2 of the CLP 2031 (and therefore 4 remaining from the Policy Villages 2 requirement) as of March 2018. A review of these sites identified that for one of these sites permission had not been issued and in the case of another the consent had lapsed. In officers' view therefore 713 of the 746 were capable of being delivered. At 31st March 2019, 271 of the 750 had been delivered, with sites under construction that when completed will have delivered a further 311 (aggregate total thus far of 582). As of 31st March 2019 permission had been granted for a further 168 dwellings under Policy Villages 2, making a total of 750 dwellings either completed, commenced or permitted. There are other sites, e.g. Stone Pits, Deddington, with resolutions to approve but permission not yet formally granted.
- 9.15. The 750 dwellings to be delivered at Category A villages is not an upper limit, but the policy describes it as a 'total' and significant deviation from this may result in unconstrained growth in less sustainable locations which would conflict with the housing strategy of the Development Plan which has a strong urban focus. This conclusion has been endorsed by Inspectors in various recent appeal decisions received by the Council, including appeals at Kirtlington (27 August 2015 - APP/C3105/W/14/3001612), Weston on the Green (8 February 2017 - APP/C3105/W/16/3158925), and Finmere (17 May 2018 - APP/C3105/W/17/3169168). Therefore, it is considered that the position in which the Council finds itself in regard to the allocation under Policy Villages 2 means that there is no urgent need to grant permission for significant additional growth under this policy and must be a matter considered in the planning balance.
- 9.16. The proposal would lead to the number of permissions being granted at Category A villages exceeding the 750 dwellings in Policy Villages 2. However, officers do not consider, in this particular instance, i.e. specific to Deddington at this time, that the proposal could be regarded as a departure from the Council's rural strategy, for the following reasons.
- 9.17. Firstly, it is noted that to date none of the 750 dwellings approved under Policy Villages 2 has been granted at Deddington but that Deddington is one of the larger Category A settlements. Whilst it is important to note that there is no distribution requirement within the policy, if the 750 dwellings were shared out pro-rotta based on population size then Deddington would be required to have 37 dwellings. Whilst it is acknowledged that permission was granted for 85 dwellings at Deddington Grange adjacent to the northern built up limits of Deddington this did not count towards the 750 homes allocated under Policy Villages 2 since that permission was granted prior to 31st March 2014.
- 9.18. A resolution to grant planning consent exists on a site to the west of the village for 21 dwellings (18/02147/F). However, this permission has not yet been issued, given legal agreement negotiations, and in any case would result in material exceedance of the 750 – but the resolution to approve was made at a time when the 750 figure had not been reached.
- 9.19. Secondly, whilst the draft Neighbourhood Plan only holds very limited weight at the current time it is noted that it is seeking to make provision for up to 50 new dwellings in the plan period – albeit that it has a limit on the size of any one development, i.e. it restricts developments to a maximum of 20 dwellings on any single site.
- 9.20. The NPPF places great importance on boosting the supply of homes – that it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay (NPPF, Para

59). And further, that: *'Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly'* (NPPF, Para 59).

- 9.21. Therefore, whilst acknowledging there is no urgent need to release additional land in the rural area under Policy Villages 2, given that Deddington has not received any of the 750 dwellings permitted, given that this proposal is for up to 15 dwellings and no more, and also having regard to the direction of travel with the Neighbourhood Plan, it is considered that in this particular instance this level of additional growth at Deddington would not be seen to undermine the wider rural housing strategy. However, Policy Villages 2 requires the consideration of a wider number of issues and for the reasons outlined below and elsewhere in this report it is not considered that the principle of developing the site for residential purposes would comply with Policy Villages 2.
- 9.22. One of the criteria within Policy Villages 2 is whether the site is well located to services and facilities. The application site to the eastern side of the village and is separated away from the main built form of the village. It is located approximately 800 metres from the village centre which contains a variety of services and bus stops. The Local Highway Authority (LHA) has noted that the footpath to the village is sub-standard, narrow, unlit and terminates along Clifton Road where there is not a safe crossing point for pedestrians to cross. The LHA therefore considers that given a combination of the distance to the services and the poor quality of these routes it is likely to deter future residents going on foot and encouraging sustainable forms of travel. No upgrading of the routes is proposed as part of the application. Furthermore, the bus service is located over 800 metres from the site and is not well connected to the site. Therefore, whilst the wider village includes a good range of services and facilities given the poor connections between the site and these services and facilities this is considered to be a matter that weighs against the development.

Conclusion

Overall, on balance, and having regard to the factors above it is considered that the principle of this scale of growth could be acceptable on this site in Deddington in the context of the Council's housing strategy and the emerging local plan. However, the poor walking routes to the services and facilities weighs against the development. Furthermore, regard also must be had to the proposal being assessed against the other relevant criteria of Policy Villages 2 and the other relevant policies and guidance, which is discussed below.

Impact on character and appearance of area

Policy context

- 9.5. Government guidance contained within the NPPF towards achieving well-designed places states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. The NPPG goes on to note that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Further, Paragraph 130 of the NPPF states that 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.
- 9.6. Paragraph 127 of the NPPF states that planning decisions should ensure that developments:

- Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change;
- Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks;
- Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

9.23. 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.”*

9.24. 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.”*

9.25. Policy Villages 2 also states regard will be had to whether a proposal would have significant adverse impacts on heritage, whether development could contribute to enhancing the built environment and whether significant adverse landscape and impacts can be avoided in determining applications under that policy.

9.26. 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 and Saved Policy C8 seeks to limit sporadic development beyond the built limits of settlements.

- 9.27. Saved Policy C33 states the Council will seeks to retain any undeveloped gap with is important in preserving the character of a loose knit settlement structure or maintaining the setting of heritage assets.
- 9.28. The Cherwell Residential Guide SPD (2018) builds on the above policies and provides a framework to deliver high quality locally distinctive development.
- 9.29. Policy DED-HOU2 of the emerging Neighbourhood Plan states that proposals which would disproportionately extend the building up limits or spoil the setting of the village will not be supported. Policy DED-HOU4 states that development abutting greenfield land should be sensitive to how it relates to the adjacent landscape and approach to the village and that all development should reflect the surrounding vernacular architecture, building typology and character of the streetscape and make a positive contribution to the distinctive character of Deddington.

Assessment

- 9.30. The application site is located at a key entrance to the village which has a strong rural approach which positively contributes to the rural setting and character and appearance of the village. The area includes a number of groups of buildings; however, they are set between parcels of open land, such as the application site, which imparts very loose knit and spacious character and appearance the area where views are available out into the wider landscape. This includes views across the application site to the south. This provides a soft and gentle transition between the wider countryside and main built up area of Deddington and the application site contributes positively to this.
- 9.31. The proposed development would harmfully impact on the loose knit settlement pattern in this area and result in a harmful urbanisation of the site and the wider locality to the detriment of the rural setting of the village. It would result in further ribbon development along the Clifton Road. The development would be clearly visible when approaching and leaving the village along Clifton Road and would be at odds with the surroundings character of the area. The creation of development of this size, detached from the main built form of the village by open land, would be out of character with the loose knit pattern of development in this area and would appear incongruous in this location resulting in the creation of a small modern housing estate with little integration with the existing built environment. Whilst the landscape and visual impacts would be relatively localized they would no doubt be harmful and incongruous given the context particularly along Clifton Road and views from the south. The application is not accompanied by a Landscape Visual Impact Assessment, but officers also consider that views of the site are likely to be available from some part of the Chapmans Lane, which is a public right of way to the south of the site, exists particularly in winter months when vegetation is more sparse. In these views the proposed development is likely to stand out given the intervening topography.
- 9.32. Furthermore, the indicative layout submitted with the application shows that to accommodate the proposed number of dwellings on the site it is likely to result in the creation of a cul-de-sac form of development with development provided in depth. This would be out of keeping with the linear arrangement and pattern of the development to the west of the site where dwellings. Furthermore, the indicative layout shows dwellings with their rear gardens and elevations on to Clifton Road which would be totally at odds with the surrounding development where dwellings have generally addressed the main road. Whilst these plans are only indicative officers consider that given the size and shape of the site that type of layout would be likely to be required to provide this number of dwellings on the site and this

demonstrates that the site would be poorly related and integrated with the existing built environment.

- 9.33. Given the application is made in outline, details of the scale, layout and appearance of the dwellings would be reserved for future application. However, the Design and Access Statement should provide a framework to demonstrate how a successful development could be achieved. The concerns regarding the indicative layout are outlined above. The Design and Access Statement submitted with the application provides some details on the appearance of the dwellings, but officers have significant further concerns regarding the intended design and detailing of the dwellings as they would appear to be based on inappropriate modern development rather than the more locally distinctive vernacular form and materials as required by the Cherwell Residential Development Design Guide SPD. Examples of this include proposals to include gault/buff brick, coursed limestone, or white render and complex building forms rather than the traditional ironstone and simple architectural style which strongly characterises Deddington.
- 9.34. Overall, therefore, the development of the site is considered to be poorly related to the pattern of development in the locality, harmful to the character and appearance of the area and setting of the village and result in a harmful visual intrusion to the open countryside. The proposal is therefore contrary to Policies ESD13, ESD15 and Villages 2 of the Cherwell Local Plan Part 1, Saved Policies C28, C30 and C33 of the Cherwell Local Plan 1996, Cherwell Residential Design Guide SPD (2018) and advice in the NPPF.

Heritage Impact

Legislative and policy context

- 9.35. The site is within the setting of a Conservation Area and also within the setting of the Scheduled Ancient Monument of Deddington Castle. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area*. Therefore, significant weight must be given to these matters in the assessment of this planning application.
- 9.36. Conservation Areas and Scheduled Monuments are designated heritage assets, and Paragraph 193 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 (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance*. It goes on to state any harm to the significance of a designated heritage asset or its setting should require clear and convincing justification. Where development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 9.37. Paragraph 189 of the NPPF states that where a site has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.
- 9.38. Policy ESD15 of the CLP 2031 Part 1 echoes this guidance. Policy Villages 2 requires consideration to be given to whether significant adverse impact on heritage can be avoided.

- 9.39. Saved Policy C25 states that in considering proposals which affect the setting of a Scheduled Ancient Monument the Council will have regard to the desirability of maintaining its overall historic character.

Assessment

- 9.40. The original application did not include any assessment in respect of the impact of the development on the nearby heritage assets and Historic England and the County Archaeologist raised concerns regarding a lack of information in that respect. Since that time a Heritage Assessment and Desk Based Archaeological Assessment have been submitted. Comments are awaited Conservation Officer on these and will be reported in the update to committee. However, based on the information provided to date the below represents the current opinion of officers.
- 9.41. The proposed development is located within the setting of the Deddington Castle which is a Scheduled Ancient Monument (SAM). This is an earthwork motte-and-bailey castle, with separate bailey either side of a central motte, which dates back to the eleventh or twelfth century. The Castle Grounds represent the west bailey with a central motte. The eastern bailey is roughly equal in area to the main bailey with evidence of late medieval fishponds or quarries. Historic England states it is nationally important and is one of the best-preserved earthworks relating to the period in Oxfordshire. Unlike other similar castles, it appears to have been located remotely from the original village of Deddington. The isolation from the village may be connected with its status as the location of the lead site of an estate. Whether deliberate or not, the setting of the asset remains largely open countryside to the main of its boundaries. The castle has illustrative value in demonstrating how the Normans dominated the surrounding landscaping and the existing open setting of the castle contributes to that significance. This assessment was agreed with by a Planning Inspector in dismissing an appeal to the west of the site (13/01941/OUT refers).
- 9.42. Whilst there are instances of more modern development which have encroached onto the open space around the castle, with the result that the natural buffer between the village and castle has been eroded, these are not considered to be positive aspects and are not considered to justify further harm to the setting of the Castle. The proposal would impact on the open setting of the Castle to the north and diminish its sense of isolation from the village. Given the proximity and topography of the area views would be available from the Castle towards the site (and vice versa) which would lead to an urbanisation of the setting. Whilst many views would be filtered through vegetation, the presence of the development would still be visible. The inter-visibility would be higher and more prominent in winter months when the filtering effect of the deciduous vegetation would not be as effective as in summer months. Historic England has also pointed to the fact that management of the SAM in the future is also likely to result in the removal of some of the screening. In addition to the above the likely layout and density of the site would result in the built form of the dwellings being closer to and more prominent than the existing housing to the west of the site, which would further exacerbate the harm of the development.
- 9.43. However, it is accepted that the site forms only part of the setting of the castle and the significance of the castle includes factors other than the values associated with its setting. Therefore, the overall harm to significance of the Castle would be 'less than substantial' in the context of the NPPF. That is not to say that it would be unimportant and the NPPF advises that any harm to heritage assets require clear and convincing justification. Paragraph 134 of the NPPF requires the harm to be balanced against the public benefits of the scheme.

- 9.44. The SAM also forms part of the Conservation Area and it is considered that for the same reasons the proposal would harm the significance of the Conservation Area through change to its setting. There is also considered to be further harm to the setting of the Conservation Area in respect of the impact of the development on the rural setting of the village. The site is located at the edge of the village and the existing approach has a strong rural character and appearance which positively contributes to the rural setting of the Conservation Area. The urbanisation of the site and the loss of openness, including some views out to the wider countryside, would erode this rural approach. Furthermore, given the proposed developments detached siting away from the main settlement form, alongside its density and likely layout, it is considered the development would appear incongruous within its immediate context and within the rural approach to the Conservation Area.
- 9.45. Overall, therefore, the proposal would result in harm to the setting of the Deddington Castle and the Conservation Area. This harm would be 'less than substantial' in the context of the NPPF but carries significant weight in determining the application. The benefits of the scheme therefore need to be weighed against this harm. In this case the benefits of the scheme include the economic and social benefits associated with the provision of 15 new dwellings including 5 affordable units. Whilst these benefits carry significant weight, given that the Council can demonstrate an appropriate housing land supply and the significant progress made on the rural housing allocations under Policy Villages 2, these benefits are not considered to outweigh the harm arising from the scheme. The proposal is therefore considered to conflict with the Policy ESD15 and advice in the NPPF in this respect.
- 9.46. The proposed development also has the potential to affect buried archaeology at the site. The County Archaeologist (CA) has noted that site lies in an area of archaeological potential to the north of the scheduled ancient monument of Deddington Castle. Although the scheduled area of the castle is outside of the proposed development area it is possible that aspects of the castle could survive within the development area. The site is also located immediately to the south of a possible Roman British settlement site and 290m south west of a medieval shrunken village which includes series of features which are thought to be an original continuation of the line of Clifton Road. As there is evidence of medieval settlement along this possible continuation of the road then the CA considers it is possible that further medieval settlement existed along the current Clifton Road, on the northern side of the proposed development area. The CA therefore considers the proposed development could impact on previously unknown archaeological features related to the medieval settlement and the scheduled castle.
- 9.47. The applicant has submitted a desk-based assessment for the site which highlights that the site has the potential to contain Roman and Medieval deposits. The assessment also highlights that an archaeological evaluation would be required to ascertain the presence and significance of archaeological remains if present within the site. The CA therefore considers that a programme of field evaluation needs to be undertaken prior to positive determination of the application to define the character and extent of the archaeological remains within the application area, and thus indicate the weight which should be attached to their preservation. This information can be used for identifying potential options for minimising or avoiding damage to the archaeology and on this basis, an informed and reasonable decision can be taken. In the absence of this information the CA objects to the applicant and Historic England has stated they concur with these views. Officers agree with findings of the CA that there is insufficient information at the current time to make an informed judgement in respect of impact of the development on archaeological feature on the site. The proposal is therefore contrary to Policy ESD15 and advice in the NPPF, which requires that sufficient information is provided to assess the potential impact of development on heritage assets.

Highway safety

- 9.48. 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.”* The NPPF advises that development should provide safe and suitable access for all and development should only be prevented or refused on transport grounds where the residual cumulative impacts are severe.
- 9.49. Policy DED-HOU2 of the emerging neighbourhood plan states regard will be had to the distance from the centre of Deddington and Deddington Health Centre and whether the proposed development would be connected to the local community in particularly in relation to pedestrian and cycle access to the centre of Deddington and whether the proposed residential development would seek to minimise the impact of the scheme on traffic congestion with appropriate road safety mitigation measures. Policy DED- MOV4 states that opportunities will also be sought to create pedestrian and, where appropriate, cycle routes connecting new developments with neighbouring developments.

Assessment

- 9.50. The development would include a new access from Clifton Road to serve the new housing. This would be located in approximately the same location as the existing agricultural access and would include a footpath into the site connecting with the existing footway along Clifton Road leading into the village.
- 9.51. The application site lies within a 40mph limit. However, the Local Highway Authority (LHA) comments that vehicle speeds appear to be higher in the area and no speed surveys have been conducted by the applicant at the site to indicate the actual speeds in the vicinity of the site. Whilst visibility from the proposed junction appears to be adequate for the posted speed limits, the LHA considers that it must be adequate for actual speeds, and with the absence of any speed survey being carried out it has not been demonstrated this could be achieved and the LHA raises an objection on that basis. Officers agree with this assessment.
- 9.52. The LHA has raised no objection to the application on the basis of traffic generation on the capacity of the local highway network and given the scale of the proposal it is not considered that the proposal could be regarded to lead to severe highway impacts on the wider road network.
- 9.53. The LHA also states that given the straight alignment of the Clifton Road in this location, traffic calming measures including a vehicle activated sign and extension of the 30mph beyond the site should be provided to slow vehicles. The LHA also requests financial contributions to cover the cost of the Traffic Regulation Order for the speed limit change and traffic calming feature consultation. Given the principle issues regarding the development of the site these matters have not been pursued further with the applicant.

Conclusion

- 9.54. In light of the LHA's comments it is considered that it has not been demonstrated that safe and suitable access can be achieved to the site or to demonstrate that the

proposal would be acceptable in regard to highway safety. The proposal therefore conflicts with Policy SLE4 and advice in the NPPF in this respect.

Impact on neighbouring amenity

- 9.55. Policy ESD 15 of the CLP 2031 (Part 1) requires new development to consider the amenity of both existing and future occupants, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space.
- 9.56. The proposed development would be located away from many of the surrounding residential properties. The property which would be most significantly upon by the proposal is the dwelling immediately to the east of the site, The Fishers. This property contains a first floor bedroom window facing over the western boundary of the site which the occupier of this property has stated is the only window serving this bedroom. The indicative layout plan shows the rear elevations of the proposed dwellings within 16 metres of this windows which is likely to result in an unacceptable level of overlooking between the properties. The layout is only indicative and could potentially be amended to address this issue and therefore does not form a reason for refusal. However, it does raise further concerns with officers regarding the layout of the site and the relationship with the village and how the development would accommodate the number of dwellings proposed.
- 9.57. Concerns have also been raised from the occupier of the property on the opposite side of Clifton Road at the entrance to the site. They raise concerns that the proposed development would lead to noise and disturbance, including headlights of vehicles using the access shining into their windows, given the position of the access. Whilst it is noted that there would be some impact on this property in this respect, this is not an uncommon occurrence in a semi-rural environment and is not considered to be a matter which would justify refusal of the application.

Affordable Housing and Housing Mix

- 9.58. Policy BSC3 of the Cherwell Local Plan (2011-2031) states that development on the site should make provision for 35% affordable housing with 70% of the affordable housing to be affordable rent and 30% as intermediate homes such as shared ownership. Policy BSC4 states that new development will be expected to provide a mix of home to meet current and expected future demand creating socially mixed and inclusive communities.
- 9.59. Policy DED-HOUS3 of the emerging neighbourhood plan seeks to ensure appropriate housing mix. Policy HOU6 states that the majority of affordable rented units should be one-bedroomed.
- 9.60. The applicant has committed to providing 35% affordable housing on the site in line with Policy BSC3 which equates to 5 dwellings on the site. The detailed housing mix would be determined at reserved matters stage and at the current time the plans are only indicative. The Council's housing officer has raised no objection to this and has provided a suggested mix. Full details of the mix of the market and affordable housing would be determined at reserved matters stage. The affordable housing would need to be secured by a legal agreement. However, in the absence of such a legal agreement the proposal is contrary to Policy BSC3 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance in the NPPF.

Flooding Risk and Drainage

- 9.61. Policy ESD6 of the CLP 2015 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists

development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding. Policy ESD7 of the Local Plan requires the use of Sustainable Urban Drainage Systems (SUDS) to manage surface water drainage. This is all with the aim to manage and reduce flood risk in the District.

- 9.62. The current is situated wholly within Flood Zone 1 which is land which has a less than 1 in 1,000 annual probability of river flooding.
- 9.63. The applicant has submitted a Drainage Strategy, which includes a concept drainage scheme which includes permeable paved areas and attenuation tanks. The Lead Local Flood Authority (LLFA) has objected to this as it considers there is insufficient information to undertake a technical assessment of the proposal and it is not aligned with local or national standards. The LLFA highlights that without adequate testing to demonstrate whether infiltration is a suitable a means of dealing with surface water within the application site an outline strategy cannot be undertaken. The LLHA also considers that insufficient justification has been provided within the strategy to disregard certain drainage solutions and therefore the proposed tanking and oversized pipes, which are proposed under the roads as proposed, are not justified. A number of other concerns are also raised regarding the strategy. It is therefore considered that the application has been accompanied by insufficient information in this regard and the proposal is considered to be contrary to Policy ESD7 of the Cherwell Local Plan and advice in the NPPF.
- 9.64. It is understood that the development immediately adjacent to the site is not connected to the main sewer. The drainage strategy notes that there is a public foul sewer approximately 125m to the west of the site and notes that foul drainage from the proposal will be discharged to this. Based on the local topography a pumped solution would be required, which would require a pump in the south eastern extent of the site and require a 10m easement from dwellings. Thames Water has raised no objection to the development in regard to foul water sewage or water network provision and the development is therefore considered to be acceptable in that regard.

Ecology

Legislative context

- 9.65. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.
- 9.66. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.
- 9.67. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:

- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
- (2) That there is no satisfactory alternative.
- (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

Policy Context

- 9.68. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 9.69. Paragraph 175 states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 9.70. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.71. These policies are both supported by national policy in the NPPF and, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.72. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Assessment

- 9.73. The current application has been accompanied by an Ecological Appraisal which has been considered by the Council's Ecologist (CE). The site is not subject to any statutory or non-statutory designations. The CE is satisfied that there are no significant protected species issues on this site and the suggested mitigation measures in the report are all appropriate including those to avoid disturbance to mammals, reptiles and birds. A separate lighting strategy would be required which can be secured through condition. The proposals do, however, result in the loss of

some semi-improved grassland which whilst not of high ecological value will result in a loss to biodiversity. There do not appear to be any particular measures taken within the illustrative layout to create new habitat and achieve a net gain for biodiversity on site, which local policy and national policy support. Currently there is no clear demonstration that a net gain will be achieved. Given the size of the site it is considered that a planning condition could be used to ensure that any reserved matters that came forward demonstrated a net gain in biodiversity

- 9.74. The ecological appraisal makes a number of suggestions for features of enhancement within the built environment which could contribute to preventing a net loss in opportunities for wildlife and should be incorporated – such as bat boxes, integrated swift bricks, hedgehog highways and invertebrate friendly planting. The details of these could be secured through a Landscape and Ecological Management Plan.

Impact on Local Infrastructure

Policy Context

- 9.75. Policy INF1 of the CLP 2015 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.”*
- 9.76. Policy BSC11 of the CLP 2015 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.”* Policy BSD12 requires new development to contribute to indoor sport, recreation and community facilities.
- 9.77. The Developer Contributions Supplementary Planning Document (SPD) setting out its position in respect of requiring financial and on site contributions towards ensuring the necessary infrastructure or service requirements are provided to meet the needs of development, and to ensure the additional pressure placed on existing services and infrastructure is mitigated. This is the starting point for negotiations in respect of completing S106 Agreements.

Assessment

- 9.78. Where on and off-site infrastructure/measures need to be secured through a planning obligation (i.e. legal agreement) they must meet statutory tests set out in regulation 122 of the Community Infrastructure Ley (CIL) Regulations 2010 (as amended). These tests are that each obligation must be:
- a) Necessary to make the development acceptable in planning terms;
 - b) Directly related to the development;
 - c) Fairly and reasonably related in scale and kind to the development.
- 9.79. Where planning obligations do not meet the above statutory tests, they cannot be taken into account in reaching a decision. In short, these tests exist to ensure that local planning authorities do not seek disproportionate and/or unjustified infrastructure or financial contributions as part of deciding to grant planning

permission. Officers have had regard to the statutory tests of planning obligations in considering the application and Members must also have regard to them to ensure that any decision reached is lawful.

- 9.80. The proposed development requires the provision of general amenity green space (approx. 0.1ha) and a local area of play (100 sq m activity zone – 400 sq m including buffer) in accordance with the minimum standards of provision outlined in Policies BSC10 and BSC11 of the Cherwell Local Plan to meet the needs of the new residents. The indicative layout makes no provision for either of these areas of open space and therefore the proposal would fail to make adequate provision for new residents in this respect. The applicant has stated that a financial contribution could be made to enhance facilities elsewhere but given the distances to other facilities this is not considered be appropriate on this site and on-site provision should be made instead. Therefore, based on the current submission the proposal fails to comply with Policy BSC10 and BSC11 of the Cherwell Local Plan and advice in the NPPF in this respect.
- 9.81. In the event that Members were to resolve to grant planning permission, the following items would in officers' view need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts:

Cherwell District Council

- Provision of and commuted sum for maintenance of open space (existing mature trees -£198.82 per tree, hedgerow - £20.49m2, informal open space/landscape buffers - £9.74m2, balancing pond - £50.98m2)
- Provision of a local play equipment and maintenance costs
- Off-site outdoor sports facilities capital provision – £30,255.45
- Off-site indoor sports facilities - £12,524.20
- Community hall facilities - £16,989.29
- £106 per dwelling for bins
- Affordable housing provision – 35%

Oxfordshire County Council

- £7,671 early years provision
- £103,567 primary school contribution
- £75,010 secondary school contribution
- £4,441 Deddington library contribution
- £3,120– Traffic regulation order for relocation of speed limited and traffic calming build out.
- £1,600 for traffic calming feature consultation
- S278 Agreement will be required to secure mitigation/improvement works, including:
 - Formation of a new site access
 - Provision / improvements to footpath to village centre
 - Relocation of the speed limit signs
 - A Vehicle Activated Sign

- 9.82. CDC's Developer Contributions SPD states that new residential development will be expected to contribute towards the provision of additional health care infrastructure generated by its population growth where there is insufficient existing capacity, well located to serve the development. Whilst the Oxfordshire Clinical Commission Group has been consulted, comments have not been received from this consultee

and they have indicated they are only likely to comment on larger applications. Thus, officers do not consider that they can request contributions towards health care infrastructure.

Conclusion

- 9.83. A number of items would need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts. Given the application is not acceptable for other reasons these matters have not been progressed. In the absence of a legal agreement to secure these matters the proposal is therefore contrary to Policies INF1, PSD1, BSC3, BSC10 and BSC11 of the Cherwell Local Plan (2011-2031) Part 1, the Developer Contributions SPD (2018) and Government guidance contained within the National Planning Policy Framework.

Other Matters

- 9.84. Saved Policy ENV12 of the CLP1996 sets out that development on land which is known or suspected to be contaminated will only be permitted if
- (i) Adequate measures can be taken to remove any threat of contamination to future occupiers of the site.
 - (ii) The development is not likely to result in contamination of surface or underground water resources
 - (iii) The proposed use does not conflict with other policies in the plan.
- 9.85. The site is on land which is potentially contaminated and the Council's Environmental Protection Officer has therefore recommended that phased contaminated land conditions need to be attached should permission be granted. Officers agree with this assessment.
- 9.86. Regarding air quality, the Council's EPO requests that ducting is provided for the future installation of Electric Vehicle charging infrastructure in order to make resident parking places EV ready for future demand. The NPPF and Policies SLE4 and ESD1 of the CLP 2015 encourage and support the incorporation of measures into new development that promote more sustainable forms of transport. The provision of EV charging infrastructure is also reflected in the Council's Infrastructure Delivery Plan. It is considered reasonable and necessary for this to be secured through a condition of any permission given.
- 9.87. Policy ESD1 of the CLP 2031 states that measures should be taken to mitigate the impact of development within the District on climate change, and Policy ESD2 of the CLP 2031 seeks to achieve carbon emission reductions. Policy ESD3 of the CLP 2031 encourages sustainable construction methods. The reference to allowable solutions in Policy ESD2 and 'zero carbon' are no longer being pursued by the government so are no longer relevant. However, the water usage requirements of ESD3 are still required to be met. In regard to energy efficiency the Council now seeks to secure in excess of that required under the 2013 Building Regulations. These matters could be controlled through a condition.
- 9.88. In relation to the best and most versatile agricultural land, which is one of the criteria in Policy Villages 2, the site lies within an area identified as grade 2 and 3 on the Council's mapping system; therefore, at least part of the site is considered to be the Best and Most Versatile Agricultural Land. The development would result in the loss of this land for agriculture and this harm weighs against the development in the planning balance.

- 9.89. The proposal would also be low density and not make efficient use of land which is a further factor weighing against the development.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The planning system seeks to achieve social, economic and environment objectives in mutually supportive ways to achieve sustainable development. In this application the proposed development is considered to be contrary to the Development Plan and NPPF when read as a whole. The main policy against which to consider the application is Policy Villages 2 (PV2) and the criteria within. While in the case of Deddington, at this time, it is considered that the proposal would not conflict with the principle of providing a total of 750 dwellings at Category A villages, in this instance when assessed against the subsequent criteria of PV2 the proposed development is not previously developed land and would result in harm to the setting of the scheduled ancient monument and the setting of the Conservation Area. This harm is not considered to be outweighed by the social and economic public benefits arising from the scheme. It would also fail to contribute to enhancing the built or natural environment and would use land identified as best and versatile land. The proposal would be poorly related to the pattern of development in the locality, harmful to the character and appearance of the area and setting of the village and result in a harmful visual intrusion to the open countryside. Further weighing against the development is the poor quality of pedestrian links to villages' services and facilities and public transport. It has also not been demonstrated that suitable and safe vehicular access could be provided to the site or that the principles of sustainable drainage would be delivered through the scheme. The proposal would fail to provide sufficient amenity space and play space for the future residents and in the absence of a legal agreement the impacts on local infrastructure and provision of affordable housing would not be secured.
- 10.2. Whilst the proposed development would result in the social and economic benefits of providing 15 new units in a Category A village, including 5no units of affordable housing, these matters are not considered to outweigh the significant environmental and social harm arising from the scheme. The proposed development is therefore not considered to represent a sustainable form of development or comply with the Development Plan when read as a whole and it is therefore recommended that planning permission be refused.

11. RECOMMENDATION

RECOMMENDATION - REFUSAL FOR THE REASONS SET OUT BELOW

1. By virtue of its poorly integrated relationship with existing built development, its extension beyond the built limits of the village and its scale and location, the proposed development would cause significant and demonstrable harm to the character and appearance of the area and the rural setting of the village and would fail to reinforce local distinctiveness. For the same reasons the proposal would also result in 'less than substantial' harm to the setting of the nearby Scheduled Ancient Monument and Conservation Area and the harm stemming from the proposals are not considered to be outweighed by any public benefits. The proposal is therefore contrary to Policies ESD13, ESD15 and Villages 2 of the Cherwell Local Plan (2011-2031) Part 1, saved Policies C28 and C33 of the Cherwell Local Plan 1996, Cherwell Residential Design Guide SPD (2018) and Government guidance contained within the National Planning Policy Framework.
2. The development proposed, by reason of its relationship and poor pedestrian connections to the centre of the village and service and facilities (including bus

stop) and taking into account Cherwell District Council's ability to demonstrate an up-to-date housing land supply, would not provide good access to services and facilities and public transport in the interests of reducing the need to travel and promoting sustainable transport options. Therefore the proposal is contrary to Policies ESD1, SLE4 and Villages 2 of the Cherwell Local Plan (2011-2031) Part 1, and Government guidance contained within the National Planning Policy Framework.

3. By reason of the site's location in an area of known archaeological interest with high potential for significant archaeological deposits to survive on site, and in the absence of a detailed and adequate archaeological field evaluation, the Local Planning Authority cannot be satisfied that the proposal would not result in unacceptable and unavoidable harm to archaeological assets. Thus, the proposal conflicts with Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.
4. The application submission fails to demonstrate that suitable and safe access to the site can be provided in the interests of highway safety given the lack of information regarding the vehicle speeds near the site. The proposed development therefore conflicts with Policy SLE4 of the Cherwell Local Plan (2011-2031) Part 1 and advice in the National Planning Policy Framework.
5. The submitted Drainage Strategy is inadequate and does not provide sufficient information to demonstrate that a drainage strategy based on Sustainable Urban Drainage Systems has been explored for the site. The proposal is therefore contrary to Policy ESD7 of the Cherwell Local Plan and advice in the Written Ministerial Statement on Sustainable Drainage Systems (Dec 2014).
6. In the absence of the completion of a satisfactory Planning Obligation, the Local Planning Authority is not convinced that the necessary infrastructure (including education, open space, sports facilities, community facilities, highway infrastructure and affordable housing) directly required as a result of this development, in the interests of supporting the sustainability of the village and the development, mix and balanced communities, and in the interests of safeguarding public infrastructure and securing on site future maintenance arrangements, will be provided. This would be contrary to Policies INF1, PSD1, BSC3, BSC10 and BSC11 of the Cherwell Local Plan (2011-2031) Part 1, the Developer Contributions SPD (2018) and Government guidance contained within the National Planning Policy Framework.