

**OS Parcel 4300 North of Shortlands and South of
High Rock
Hook Norton Road
Sibford Ferris**

18/01894/OUT

Case Officer: Bob Neville

Applicant: Land & Partners Limited

Proposal: Outline planning permission with all matters reserved for up to 25 dwellings with associated open space, parking and sustainable drainage

Ward: Cropredy, Sibfords And Wroxton

Councillors: Cllr George Reynolds
Cllr Douglas Webb
Cllr Phil Chapman

Reason for Referral: Major Development

Expiry Date: 02.01.2019

Committee Date: 18.04.2019

Extension of Time: 30.04.2019

This application is subject to a Committee Members Site Visit, taking place on 18 April 2019.

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND ECONOMY TO GRANT PERMISSION SUBJECT TO NO OBJECTIONS FROM COUNTY COUNCIL'S ARCHAEOLOGIST AND SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):

- a) Provision of 35% affordable housing together with 70/30 tenure split between social rented and shared ownership or other low cost home ownership which shall be agreed with CDC;
- b) Provision of public open amenity space and future maintenance arrangements;
- c) Provision of a combined on-site LAP together with future maintenance arrangements;
- d) Maintenance arrangements for on-site trees, hedgerows, and drainage features;
- e) Payment of a financial contribution towards the provision of refuse/recycling bins for the development.
- f) Financial contributions towards improvements to off-site indoor and outdoor sports facilities;

- g) **Financial contribution towards the provision of new community hall facilities or the improvement/expansion of existing facilities where there is not enough space capacity in existing appropriate facilities.**
- h) **Public Transport Infrastructure Financial Contribution of £20,000 towards a new bus shelter and hardstanding for the existing bus stop on Main Street, Sibford Ferris;**
- i) **Traffic Regulation Order Financial Contribution of £4,850 towards the alteration of the speed limit TRO on Hook Norton Road, and provision of a gateway feature and highway markings**
- j) **To secure entry into a S278 agreement (Highways Act 1980) to secure mitigation/improvement works, including: Formation of a new site access and provision of a footway from the pedestrian access on Hook Norton Road to the existing footway network**

Proposal

Outline planning permission is sought for the erection of up to 25 dwellings, with associated open space, parking, sustainable drainage and vehicular access point from the Hook Norton Road. The application includes an indicative concept plan which details provision of a Local Area of Play (LAP), Community Orchard, Allotments, footpath link through the site and green open-space. The submitted plans indicate that access would be taken from the adjacent Hook Norton Road. The application leaves all matters reserved for future consideration.

Consultations

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

- Sibford Ferris Parish Council, Sibford Gower Parish Council and OCC Archaeology.

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

- CDC Arboriculture, CDC Building Control, CDC Conservation, CDC Ecology, CDC Leisure and Recreation, CDC Planning Policy, OCC Highways, OCC Education, OCC Drainage, CDC Landscaping, CDC Strategic Housing, Severn Trent Water (sewage), Thames Valley Police and Thames Water (water supply).

110 letters of objection have been received and 1 letter of support has been received.

Planning Policy and Constraints

The site is part (3.7Ha) of an agricultural field classified by Natural England as being Grade 2 'very good' Agricultural Land. The Cotswolds Area of Outstanding Natural Beauty lies approximately 1.5km (0.9mile) west of the site. The Sibford Ferris Conservation Area boundary lies some 70m to the north of the site with existing residential properties on intervening land. The nearest listed buildings within the Conservation Area lie some 175m to the north-east of the site located on the main street through the village. The site has some ecological potential as the site is located within 2km (1.2mile) of Sharps Hill Quarry SSSI and notable and legally protected species have been recorded within the vicinity of the site. The site is identified as having archaeological potential. Public Rights of Way (PRoW) run adjacent crossing land west (Footpath 347/2/10) and east (Footpath 347/4/10) of the site; with further PRoW to the north (Bridleway 347/1/10) and south-east (Footpath 347/6/10) of the site.

The application has also been assessed against the relevant policies in the National Planning Policy Framework, 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;
- Landscape Visual Impact and Local Character;
- Impact on the Historic Environment;
- Transport and Highways Impact;
- Impact on Residential Amenity;
- Ecology and Biodiversity;
- Flooding Risk and Drainage;
- Impact on Local Infrastructure;
- Human Rights and Equalities.

The report looks into the key planning issues in detail, and Officers conclude that, subject to no adverse comments from the County Council's Archaeologist, the proposal is acceptable subject to conditions and completion of an appropriate S106 Agreement.

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 part (3.7Ha) of an agricultural field adjacent the village of Sibford Ferris. There are predominantly two storey residential properties with varying styles and palette of materials to the north and east of the site and Sibford School and associated supporting buildings also lie to the east. The site is bounded by mature agricultural boundary hedgerows with trees at points within the hedgerow. The Hook Norton Road runs adjacent the eastern boundary of the site, whilst Woodway Road, a single-track road runs along the western boundary. The north-eastern corner of the site sits at a similar level to the neighbouring residential properties to the north but falls away to the west, north and south.

2. CONSTRAINTS

2.1. In terms of site constraints the site is part (3.7Ha) of an agricultural field classified by Natural England as being Grade 2 'very good' Agricultural Land. The Cotswolds Area of Outstanding Natural Beauty lies approximately 1.5km (0.9mile) west of the site. The Sibford Ferris Conservation Area boundary lies some 70m to the north of the site with existing residential properties on intervening land. The nearest listed buildings within the Conservation Area lie some 175m to the north-east of the site located on the main street through the village. The site has some ecological potential as the site is located within 2km (1.2mile) of Sharps Hill Quarry SSSI and notable and legally protected species have been recorded within the vicinity of the site. The site is identified as having archaeological potential and further in an area known to contain naturally occurring elevated levels of arsenic, Nickel and Chromium; as seen across much of the district. Public Rights of Way (PRoW) run adjacent crossing land west (Footpath 347/2/10) and east (Footpath 347/4/10) of the site; with further PRoW to the north (Bridleway 347/1/10) and south-east (Footpath 347/6/10) of the site.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks outline planning permission for the erection of up to 25 dwellings, with associated open space, parking and sustainable drainage and vehicular access point from the Hook Norton Road. The application leaves all matters reserved for future consideration.
- 3.2. Whilst all matters are reserved the applicants have submitted a Concept Schematic Plan (Drwg. No. 3361-101) which gives an indicative layout. Further plans have been submitted during the application in response to officers' concerns in respect of securing land use parameters (Drwg. No. 6426/ASP3/PP Rev. C) and further information regarding the landscape strategy (Drwg. No. 6426/ASP4/LSP Rev. A). The indicative layout shows the scale and density of the development diminishing outwards from the north-eastern corner of the site; with development scaling down from 2 storeys to 1.5 storeys, and densities decreasing from 30 DPH (dwellings per hectare) to 5 DPH on the rural facing boundaries of the site.
- 3.3. The indicative layout also includes the provision green open space, a Local Area of Play (LAP) a community orchard, allotments, balancing pond and a connecting route through the site between existing PRowS that run to the east and west of the site.
- 3.4. The following technical documents have also been submitted in support of the application:
 - Planning and Sustainability Statement;
 - Design and Access Statement;
 - Transport Assessment;
 - Landscape and Visual Impact Assessment; including Topographical Survey;
 - Flood Risk Assessment;
 - Arboricultural Impact Assessment;
 - Ecological Impact Assessment;
 - Archaeological Desk-Based Assessment;
 - A Technical Note assessing location of utilities;
 - Flood Risk Assessment and drainage Strategy Report;
 - Statement of Community Involvement.
- 3.5. During the application an objection was raised by the County Council's Archaeologist, requiring further archaeological investigative work to be undertaken prior to the determination of the application. An extension of time of the determination period of the application has subsequently been agreed with the applicant to allow for such work to be undertaken and appropriate reports to be submitted in support of the application; this is discussed further below.

4. RELEVANT PLANNING HISTORY

- 4.1. The following planning history is considered relevant to the current proposal:

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
98/00646/AGD	Construction of a general purpose agricultural building and an 80 ton grain silo	Application Refused

Refused on the grounds that the proposed agricultural building and grain silo would constitute unduly prominent and visually intrusive features in the attractive and sensitive landscape within a designated Area of High landscape value; contrary to Policies C7 and C13 of the Cherwell Local Plan 1996.

14/00962/OUT	OUTLINE - Erection of six Affordable Local Needs Dwellings and two Market Sale Dwellings with associated car parking and	Application Withdrawn
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access road including the provision of open space and allotments

Application 14/00962/OUT originally received a resolution to grant planning permission at planning committee on 27.11.2014, subject to completion of an appropriate S106 Legal Agreement, to secure the affordable housing provision. However, after a number years and there being no resolution of the S106, a decision was taken by the then applicants, Green Square Group, to withdraw the application.

5. PRE-APPLICATION DISCUSSIONS

- 5.1. The following pre-application discussions have taken place with regard to this proposal:

<u>Application Ref.</u>	<u>Proposal</u>
17/00321/PREAPP	Development of up to 25 dwellings with associated open space and sustainable drainage

- 5.2. In summary of the Council's response to this pre-application enquiry, the layout proposed within the enquiry put forward a relatively loose-knit development of 25 dwellings over the site, with varying house-types. Whilst largely advising on what issues needed to be addressed and the necessary information that would be required to support a future planning application, the Council expressed concerns with regards to the principle of developing of 25no dwellings on the site, the sustainability of the location of the site and whether such proposals would be in compliance with the Council's policies in respect of the District's rural housing strategy. Further concerns were expressed with regards to the proposed layout as submitted and to the potential visual harm that would arise from such a development should development be allowed to intrude into the open rural landscape, beyond the extents which had been identified as being acceptable within the Council's 2017 Housing and Economic Land Availability Assessment (HELAA), which identified the site as having potential for residential development. The Council's response was issued on 13/12/2017.

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. The final date for comments was 08.02.2019, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. 110 letters of objection have been received (including letters from David Locke Associates on behalf of 'The Sibfords Action Group') and 1 letter of support has been received.
- 6.3. The comments raised in objection by third parties are summarised as follows:
- The proposals do not represent a sustainable form of development. The principle of development is considered contrary to the Council's rural housing strategy and associated development plan policies; including the provisions of Policy Villages 1 and Policy Villages 2 of the Cherwell local Plan 2011-2031 Part 1.

- The proposed development would be a disproportionate addition to the village contrary to local community wishes, expressed with the Sibfords' Community Plan (2012). Further that an appropriate mix of new houses is not being brought forward to allow more people to stay in the village.
- Proposals not in keeping with the character of the existing village. With a total of around 160 houses in Sibford Ferris, the additional 25 dwellings represent a significant increase in population and over-development in the rural community.
- There is a general lack of infrastructure within the village to support an additional 25 dwellings; putting massive pressure on water pressure, sewage capacity, local school and GP practice. Further there is a lack of continuous footpath routes through the village to available services and facilities including school, shop and surgery.
- The outline plan shows roads within the development deliberately left open to develop further housing in fields on either side of the proposed site, leaving open the potential for future development and an un-welcomed precedent
- If outline planning permission is granted there is nothing to stop a commercial developer making a new application to increase density and/or design with the benefit that development on the site has already been accepted. With outline permission granted, it is much easier for any developer to expand and alter any planning permission when detailed planning permission is applied for.
- The development would increase the amount of traffic on the village's already narrow and substandard roads. There is significant traffic conflict with the adjacent school at peak times where there are often traffic jams between the shop and Folly Court. Existing traffic brings the village to a standstill at peak times due to on-street parking and the narrowing of roads at points through the village. Additional traffic as a result of the proposed development would result in increased highway safety risks for pedestrians, cyclists and horse riders.
- The traffic estimates that were put forward in the proposal were very misleading and underestimated. Future occupants would be reliant on the use of a car as the bus service is not frequent enough for people to rely on for the purposes of travelling to work, school etc. Further that there is a limited range of services and facilities within the village.
- The proposals do not provide satisfactory vehicular and pedestrian access and egress. There is also a further concern with regards to the safety of the access given the speeds of vehicle entering the village and limited visibility coming over the brow of the hill.
- The route through the village is regularly used as a 'rat-run' by vehicles and this would be exacerbated by the proposed development
- Before any development proceeds there should be consideration and investment from local highways to traffic calming and pedestrian routes and crossings.
- The development would see the loss of Grade 2 'very good' agricultural land on what is a 'Greenfield' site. The proposals would result in detrimental

impact on landscape and views into and out of the village and views of users of the Public Rights of Way. Further, that proposals would detrimentally impact on the Cotswolds ANOB.

- Proposals would detrimentally impact on existing features of ecology and biodiversity value; including the potential for light pollution affecting local bird and bat populations and relocation of Badgers.
 - Proposals would be detrimental to the character and appearance of the Conservation Area. Why was Historic England not consulted, particularly in view of the fact that there are over 30 Listed Grade II buildings in the villages of Sibford Ferris and Sibford Gower.
 - There is support within the village for development of lesser numbers of new dwellings on the site.
 - Proposals would increase flood-risk on and adjacent the site on Woodway Road.
 - Sibford Ferris and Sibford Gower are not sustainable villages when considered separately.
 - Cherwell's rural housing need, including that identified within Policy Villages 2, has already been met; and as such there is not a need for such significant development in Sibford Ferris. Further, Oxford's unmet housing need should not be considered relevant to Sibford.
 - The proposals are in excess of what was considered acceptable by the Council's HELAA.
 - There does not appear to have been any assessment as to whether there are more suitable sites.
 - A previous development was approved for 8-10 homes, this being an appropriate number for a small village; this is just a further increase.
 - All the new developments in our region look the same and the Cherwell region is becoming a homogeneous sprawl of houses; with some being of questionable quality.
 - Concerns are raised in respect of the lack of finalised archaeological investigation and evaluation work at the site, in light of the objection of the County Council's Archaeologist.
 - A recent planning appeal is highlighted (Fringford Cottage, Main Street, Fringford OX27 8DP (Appeal Ref: APP/C3105/W/18/3204920) for its relevance in consideration of sustainability and housing land supply issues and comparisons with the current application at the site.
- 6.4. One letter of support was received which highlighted some positive aspects of the proposals (including; the site not being cramped up; helping the younger generation to get on the property ladder; additional pupils supporting the school; additional support for the shop and the public houses and also benefits of the provision of the proposed orchard and allotments) and further the author's interest in owning such a property, should the development proceed.

6.5. 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. SIBFORD FERRIS PARISH COUNCIL: **Objects**, on the following grounds:

- The proposals would be contrary to development plan policy with regards to new residential development within Category A Villages; as the proposals sit adjacent the village boundary and would become an extension to the village.
- The proposed site is 'Grade 2' best and most versatile agricultural land and is in close proximity to the Cotswold AONB.
- There is insufficient evidence within the application to prove that an additional 25 households can be supported by the existing services and infrastructure of the area; particularly noting:
 - The nature of the village road network is incompatible with any significant increase in volume, particularly during peak hours
 - Concerns with regard to the capacity of the foul and waste water systems to handle a circa 10% increase in volume.
- The proposed outline planning application does not align with the community view as assessed and recorded in the Sibfords Community Plan 2012

7.3. SIBFORD GOWER PARISH COUNCIL: **Objects, on the following grounds:**

- The application has been identified with land in the adjoining parish of Sibford Ferris, but would have significant infrastructure impact on the village of Sibford Gower. It would, furthermore, profoundly affect the character of the village community as a whole, and set a precedent that would have potential repercussions throughout both villages.
- The proposals would not be in accordance with the Development Plan (Adopted Cherwell Local Plan 2011-2031 (Part 1)). Further that the site lies outside of the search areas of Partial Review of the Local Plan Part 1 in relation to meeting Oxford's unmet housing need, and therefore is of no relevance in consideration of the current application.
- The proposed outline planning application does not align with the community view as assessed and recorded in the Sibfords Community Plan 2012.
- There being no justification for the change from the approval for 8 houses granted in 2014 to the current application for 25 houses. Further range of housing density figures are offered by the applicant for different elements of the current proposal, the essential focus of the 2014 approval, supported at the time by the local community, has been entirely corrupted by incorporating 19 market value houses (64%) of varying size and potential value.
- There would be conflict with the provisions of Policy Villages 2. The land has not been previously developed and is classed as Grade 2 agricultural land, of which there is a presumption against the development of such land for residential purposes, as it is classed as the 'best and most versatile' agricultural land.
- The proposals would set a precedent for further future development.

- Raises similar concerns to those of Sibford Ferris PC with regards to infrastructure capacity. Further highlighting that existing facilities would be over-whelmed and there is the lack of footpath routes to these services.
- Highway safety issues in relation to vehicle movements which would compromise existing pinch-points within the village.
- Raises concerns with regards to the potential that whilst the current proposal identifies a response to the potential built environment, there is no guarantee that any subsequent developer would respect the proposals as they seek to gain full planning permission. And further that the character of the entire area, a listed area of outstanding natural beauty, would be directly threatened by this proposal.

CONSULTEES

- 7.4. CDC ARBORICULTURE: **No objections**, subject to conditions to ensure the retention and protection of existing trees to be retained, and approval of a detailed landscaping scheme.
- 7.5. CDC BUILDING CONTROL: **No objections**, commenting that a Building Regulations application would be required and further site investigations should be undertaken. Further that when considering a detailed layout due regard would need to be had to guidance in respect of appropriate access for emergency and refuse collection vehicles.
- 7.6. CDC CONSERVATION: **No objections**. It being considered that the proposed development would not harm the character of the conservation area or the setting of any Listed Buildings.
- 7.7. CDC ECOLOGY: **No objections**, subject to conditions requiring approval of a Landscape and Ecological Management Plan (LEMP) and Construction Environmental Management Plans (CEMP) for Biodiversity
- 7.8. CDC FINANCE: **No comments received**.
- 7.9. CDC LANDSCAPING: **No objections**, subject to an appropriate landscaping scheme being brought forward. And whilst originally recommending that the proposed building line be set back further from the edge of Hook Norton Road, verbally acknowledged that this was only to ensure that the existing hedgerow along this boundary be retained.
- 7.10. CDC LEISURE AND RECREATION: **No objections**.
- 7.11. CDC PLANNING POLICY: **No objections**.
- 7.12. CDC STRATEGIC HOUSING: **No objections**, subject to the proposed affordable housing mix and tenure being secured by way of S106 Agreement.
- 7.13. CDC WASTE AND RECYCLING: **No comments received**.
- 7.14. CLINICAL COMMISSIONING GROUP: **No comments received**.
- 7.15. OCC ARCHAEOLOGY: **Objects**, commenting that: *'A programme of archaeological investigation will be required to support this application as set out in the submitted desk based assessment by Orion Heritage'*.
- 7.16. OCC HIGHWAYS: **No objections**, subject to conditions (in relation to Access, Vision Splays, Parking and Manoeuvring, Travel Information pack, Cycle Parking

and a Construction Management Plan), securing contributions through a S106 Agreement (in respect of Public Transport Infrastructure and a Traffic Regulation Order) and securing an obligation to enter into a S278 Agreement (in respect of any new access)

7.17. OCC EDUCATION: **No objections.**

7.18. OCC DRAINAGE: **No objections**, subject to a condition requiring a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, to be submitted and approved prior to the commencement of development.

7.19. OPEN SPACES SOCIETY: **No comments received.**

7.20. RAMBLERS ASSOCIATION: **No comments received.**

7.21. SEVERN TRENT WATER (SEWAGE): **No objections**, subject to conditions in respect of the proposed sewage drainage strategy including a sewer modelling assessment.

7.22. THAMES VALLEY POLICE: **No objections.**

7.23. THAMES WATER (WATER SUPPLY): **No objections.**

7.24. WESTERN POWER: **No comments received.**

7.25. Officer comment: Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the 1990 Act (as amended) defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.

7.26. In this particular instance, the above financial payments are not considered to be material to the decision as they would not make the development acceptable in planning terms. It would not be appropriate to make a decision based on the potential for the development to raise money for a local authority and hence the above response from the Council's Finance department is therefore provided on an information basis only.

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)

- PSD1: Presumption in Favour of Sustainable Development
- SLE4: Improved Transport and Connections
- BSC1: District Wide Housing Distribution
- BSC2: The Effective and Efficient Use of Land – Brownfield land and Housing Density
- BSC3: Affordable Housing
- BSC4: Housing Mix
- BSC7: Meeting Education Needs
- BSC8: Securing Health and Well-Being
- BSC9: Public Services and Utilities
- BSC10: Open Space, Outdoor Sport and Recreation Provision
- BSC11: Local Standards of Provision – Outdoor Recreation
- BSC12: Indoor Sport, Recreation and Community Facilities
- ESD1: Mitigating and Adapting to Climate Change
- ESD2: Energy Hierarchy and Allowable Solutions
- ESD3: Sustainable Construction
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems (SuDs)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD 12: Cotswold Area of Outstanding Natural Beauty (AONB)
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment
- ESD17: Green Infrastructure
- VILLAGES 1: Village Categorisation
- VILLAGES 2: Distributing Growth
- INF1: Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18: New dwellings in the countryside
- TR1: Transportation funding
- TR7: Development attracting traffic on minor roads
- C8: Sporadic development in the countryside
- C14: Countryside management projects
- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- ENV1: Development likely to cause detrimental levels of pollution
- ENV12: Development on contaminated land

8.3. Other Material Planning Considerations:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2010
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)
- Developer Contributions SPD (February 2018)
- Cherwell Residential Design Guide SPD (July 2018)
- Oxfordshire Wildlife & Landscape Study 2004
- Annual Monitoring Report (AMR) (December 2018)

- Housing & Economic Land Availability Assessment 2018 (HELAA)
- Housing Land Supply in Oxfordshire: Ministerial Statement of 12th September 2018
- Cotswolds AONB Management Plan
- Sibfords Community Plan 2012 (SCP)
- Oxfordshire County Council: Local Transport Plan 4 (2015-2031)

8.4. 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;
- Site Layout and Design principles
- Landscape and Visual Impact and Local Character;
- Impact on the Historic Environment;
- Transport and Highways Impact;
- Impact on Residential Amenity;
- Flooding Risk and Drainage;
- Affordable Housing;
- Impact on Local Infrastructure;
- Ecology and Biodiversity;
- Human Rights and Equalities.

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 as well as a

number of Adopted Neighbourhood Plans (although none of which are relevant to Sibford Ferris).

Policy Context

- 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.
- 9.4. 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.
- 9.5. Policy PSD1 contained within the CLP 2031 echoes the NPPF's requirements for 'sustainable development' and that planning applications that accord with the policies in the Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise.
- 9.6. 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.
- 9.7. 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.
- 9.8. 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. Minor development, infilling and conversions are considered acceptable types of development within Category A villages.
- 9.9. 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.
- 9.10. 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.”*

Assessment

- 9.11. Cherwell District Council can demonstrate a five-year supply of deliverable housing sites. In addition to this, the Written Ministerial Statement of 12th September 2018 provides for a temporary change to housing land supply policies as they apply in Oxfordshire. Until the adoption of the Joint Statutory Spatial Plan, the Oxfordshire Authorities are required to demonstrate a 3 year supply of deliverable housing sites (as well as meeting their requirements in respect of the Housing Delivery Test). As such, policies for determining the application are only to be considered out of date (in accordance with paragraph 11d – footnote 7 of the NPPF) where a 3 year supply of deliverable sites cannot be demonstrated. The presumption in favour of sustainable development, as advised by the NPPF, will need to be applied in this context.
- 9.12. 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.
- 9.13. The site has in part been considered as having potential for residential development within the Council’s Housing & Economic Land Availability Assessment 2018 (HELAA). The site, referenced HELAA 204, is considered suitable, available and achievable for up to 10no dwellings, with the final report stating: *‘In view of the relationship with the existing built-form of the village, some limited potential exists but this should be confined to the north-east corner of the site having regard to detailed consideration of the landscape impact and the impact on character of the village’*. A further site to the north (HELAA 267) is identified as having potential for up to 20 dwellings. However, whilst the potential for residential development at the site and adjacent to the north has been identified, this is not a formal allocation under the Development Plan.
- 9.14. Within Policy Villages 1 of the CLP 2031 Sibford Ferris is recognised as a ‘Category A’ village, by virtue of its close association with Burdrop and Sibford Gower. In terms of scale, the Sibfords combined population (2011) is approximately 984 and the village has not seen any significant new housing since this data was collated. It is located some 7.5 miles from Banbury and 7.7 miles from Chipping Norton, with bus links to both Banbury and Stratford upon Avon (4 no. pick-up times west-bound and 5 pick-ups east-bound). It has recreation and

community facilities, a primary school, nursery, shop/post office, public house and GP surgery. The Sibfords are considered to be one of the more sustainable Category A villages within the district given the services and facilities available within the village group.

- 9.15. As the proposal seeks permission for residential development on the edge of a Category A Village, it such does not find support under Policy Villages 1. As the proposal is for over 10 dwellings on land outside, but immediately adjacent to the built up limits of the village of Sibford Ferris, it can therefore be considered under Policy Villages 2 of the CLP 2031.
- 9.16. 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 in para 9.10 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, and in particular whether the proposal is in accordance with the overarching housing strategy of the CLP 2031.
- 9.17. The Council's AMR 2018 (published December 2018), identifies that permission has been granted 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). Officers consider that most of these dwellings have, or, are likely to be delivered: 124 of the 746 dwellings have been completed and a further 425 are under construction.
- 9.18. 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. This conclusion has been endorsed in Inspector's conclusion 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).
- 9.19. 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).
- 9.20. In 2014 the Council resolved to grant outline planning permission (14/00962/OUT) for 6 affordable homes and 2 open market homes on part of what is the current site. However, unfortunately due to irrevocable complications with the completion of an associated legal agreement the application was withdrawn by the then applicants (Green Square Group). The application was in part justified on meeting an identified housing need identified in a Housing Needs Survey which was carried out in March 2010 followed by a Register of Interest in December 2013. That report highlighted 10 individuals which had a local housing need and 9 with a local connection to the parish. In this respect, as noted above, the Sibfords have not seen any recent significant new residential development, and whilst there are no up-to-date housing needs assessments, it is likely that there remains a need for affordable housing within the village.
- 9.21. In terms of affordable housing, the proposals would provide 35% of the proposed units (9 no units) as affordable dwellings, in line with the provisions of Policy BSC 3 of the CLP 2031. The Council's Strategic Housing Team provided advice and

guidance on the proposed mix and tenure of affordable housing that would be considered acceptable at the pre-application stage; this has been carried forward to the current application. Officers have commenced discussions on agreeing Draft Heads of Terms of a S106 Agreement which would look to secure the affordable housing mix considered acceptable by the Strategic Housing Team:

Affordable Rent

2 x 1b2pM - Affordable Rented

3 x 2b4pH - Affordable Rented

1 x 3b5pH - Affordable Rented

Shared Ownership

2 x 2b4pH - Shared Ownership

1 x 3b5pH – Shared Ownership

- 9.22. Turning to the assessment of the proposals against the criteria of Policy Villages 2:
- 9.23. The village is surrounded by agricultural fields and as such any expansion of the village would likely result in the loss of agricultural land. Whilst the site is a 'green field' site classified as being 'very good' agricultural land, and therefore there would be conflict with the relevant criterion of Policy Villages 2, it is considered that proposals would be unlikely to result in significant adverse impact on heritage, wildlife assets or the surrounding landscape (these matters are discussed in more detail further below).
- 9.24. Given that all matters are reserved for future consideration it cannot be fully established at this stage that the proposals would contribute to the enhancement of the built environment; conversely it cannot be assumed that that it categorically would not. The proposals would have an impact on the site and the setting of surrounding land and development by virtue of introducing built form where currently none exists. It is considered that the indicative layout and associated parameter plans and Landscape Visual Impact Assessment gives a degree of confidence that such matters could be satisfactorily resolved at any such detailed application stage to allow for an acceptable form of development that would look to respect/enhance the existing character of the existing built form at the edge of the village.
- 9.25. In terms of safe vehicular and pedestrian access/egress being provided, whilst this is again a matter for future consideration, the LHA has assessed the proposals and considers the principle of development acceptable in terms of highway safety, subject to approval of appropriate details which could be secured by way of condition attached to any such permission.
- 9.26. With regard to being well located to services and facilities, third party comment is made with regards to the fact that existing services and facilities would need to be accessed via car due to the lack of footpath connectivity through the villages; however, this could be said to be the same circumstance for many of the residents in this part of the village. As detailed above the site is considered to be adjacent to one of the more sustainable Category A villages, as identified within the Development Plan. Due regard must therefore be had to the fact that village is considered sustainable in respect of the services and facilities, and access to such - including the regular bus service - that it has to offer, and further that the proposed development would look to support existing facilities, including the local shop and primary school.
- 9.27. In terms of infrastructure, notwithstanding third party comments raised in objection to the application, no technical objections have been received from utility suppliers

in terms of capacity of existing facilities and services, including water supply and sewage disposal or from the LHA in terms of the capacity of the local road network. It is considered that any such matters in relation to provision of appropriate infrastructure could be secured by way of appropriate conditions attached to any such permission supported by a S106 agreement as necessary or at any such detailed application stage.

- 9.28. In terms of deliverability of the site, the proposals are for a modest development on a green field site. Officers are not aware of any evidence that would suggest that there is not a reasonable prospect of development being brought forward in a reasonable timeframe, should permission be granted.
- 9.29. With regards to potential for flood risk the site is not within an area considered to be at a high risk of flooding. Whilst the submitted Flood-Risk Assessment (FRA) has identified the potential for flood-risk from 'perched' groundwater it is considered by the Local Drainage Authority that an acceptable drainage strategy could be achieved that would not exacerbate flood-risk either on the site or elsewhere as a result of the proposed development.
- 9.30. A number of representations made in objection to the application refer to the proposals being contrary to the Sibfords Community Plan 2012 (SCP). The SCP represents the outcome of voluntary work by people from the villages during 2011 and 2012, including information gathered via a household questionnaire, and looks to set out a vision of how the community wants to develop and identifies the actions needed to achieve it. In respect of new housing the SCP identifies that the majority of respondents to the questionnaire were not prepared to see more than 20 new houses. Whilst the SCP is clearly reflective of the views of a significant proportion of the population of the Sibfords that responded to the questionnaire, the Plan does not have any formal status within the Development Plan and therefore it can only be afforded limited weight.

Conclusion

- 9.31. As the proposal is for a residential development over 10 dwellings at the Category A village of Sibford Ferris, the proposal stands to be assessed against Policy Villages 2 of the CLP 2031, as well as other material planning considerations, which will be discussed in greater detail further below.
- 9.32. Officers acknowledge that granting planning permission for these 25 homes would result in planning permission having been granted for more than 750 homes under Policy Villages 2. However, officers consider the 750 would not be significantly exceeded or to the extent that it would undermine the Council's overall spatial housing strategy. In addition, the proposal would be a proportionate addition to the settlement of Sibford Ferris which is considered to be a sustainable settlement as above and which has not accommodated any of the Policy Village 2 numbers to date. It is notable that the majority of the more sustainable Category A villages have received new development under Policy Villages 2; only the Sibfords, Steeple Aston and Deddington are yet to receive any development within the plan period
- 9.33. Whilst there would be some limited conflict with the provisions of Policy Villages 2, in that this would be development of Grade 2 agricultural land, a planning balance needs to be undertaken as to whether material considerations would outweigh this conflict.
- 9.34. The development would provide a positive contribution towards maintaining the Council's housing land supply and provision of affordable housing, within a sustainable location where residential development has previously been accepted. The proposals put forward also look to provide further benefits to the local

community including: new informal green open space, community orchard, allotments, footpath links and further commitments with regards infrastructure improvements through an associated S106 agreement. On balance, it is therefore considered that the principle of development could be acceptable subject to further considerations discussed further below.

Site Layout and Design Principles

Policy Context

- 9.35. Policy ESD15 of the CLP 2015 provides guidance as to the assessment of development and its impact upon the character of the built and historic environment. It seeks to secure development that would complement and enhance the character of its context through sensitive siting, layout and high quality design meeting high design standards and complementing any nearby heritage assets. The National Planning Policy Framework is clear that good design is a fundamental to what the planning and development process should achieve.
- 9.36. The Council's Residential Design Guide SPD seeks to ensure that new development responds to the traditional settlement pattern, character and context of a village. This includes the use of continuous building forms along principle routes and adjacent to areas of the public open space, the use of traditional building materials and detailing and form that respond to the local vernacular.

Assessment

- 9.37. The application is in outline with all matters reserved except for access. The application is accompanied by an indicative concept layout, and during the application officers have further sought and received land use parameter plans setting out uses within the site and potential build zones within the site. It is expected that the indicative concept layout, land use parameter plans and design and access statement would demonstrate that the development proposed can be appropriately accommodated and which sets appropriate design principles so that should outline planning permission be granted, future detailed proposals can be secured and achieved.
- 9.38. The layout as submitted is considered to embrace the principles as set out in the 2018 adopted Residential Design Guide. The proposals demonstrate a strong frontage on the Hook Norton Road, reflecting the pattern of residential development through the village, whilst decreasing in density on the rural edges of the development, reflecting the more loose-knit pattern of development often experienced on the edge of rural villages.
- 9.39. Whilst design and materials would be future assessment under a reserved matters application it is considered that, given the visual sensitivity of the site, appropriate levels of control should be secured at any such detailed application stage, to ensure compliance with design principles reflective of those within the village and wider district.
- 9.40. The proposed landscaping, allotments and green open space further would provide a softer edge to the proposed development allowing for a transition to the surrounding rural landscape.
- 9.41. Third party comments raise concerns that whilst the indicative layout shows a set layout, that given all matters are reserved for future consideration, should outline permission be granted, the site could then be sold onto to a different developer who may wish to put forward an alternative layout that may not include the benefits (open space, orchard LAP etc.) as put forward in this current scheme or increase

the density of the site; and that the Local Planning Authority might be in a weakened position in terms of resisting less appropriate development. This is a reasonable comment to make. The indicative layout shows an attractive and relatively bespoke layout of development that officers considered acceptable. A different, less distinctive layout would likely have a greater impact and not be likely to attract officer support.

- 9.42. That said, whilst every application would need to be assessed on its own planning merits at the time of the of any such application, officers are confident of the level of control that could be safeguarded through ensuring broad compliance with any approved plans secured by way of appropriate condition attached to any such permission.
- 9.43. Further comment is made in relation to any such approval on the current site setting a precedent for allowing future further residential development, on the adjacent site to the north and further south down the Hook Norton Road. As noted above any such application would need to be assessed on its own planning merits and in the policy context at the time of any such application.

Conclusion

- 9.44. It is considered that an appropriately detailed scheme could be brought forward based on the concept scheme put forward within this application, and that it could be ensured that such a scheme would sympathetic to the character and rural edge of village context, embracing the design principles expressed within Cherwell's Residential Design Guide.

Landscape and Visual Impact and Local Character

Policy Context

- 9.45. The Government attaches great importance to the design of the built environment within the NPPF. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 9.46. These aims are also echoed within Policy ESD15 of the CLP 2031 which looks to promote and support development of a high standard which contributes positively to an area's character and identity by creating or reinforcing local distinctiveness, stating that: *"New development proposals should respect the traditional pattern of 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 designed active public frontages"*.
- 9.47. Saved Policy C28 of the CLP 1996 states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the context of that development. Further, saved Policy C30 of CLP 1996 states control will be exercised to ensure that all new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.
- 9.48. Policy ESD12 of the CLP 2031 states that: *'High priority will be given to the protection and enhancement of the Cotswolds AONB and the Council will seek to protect the AONB and its setting from potentially damaging and inappropriate development. The Cotswolds AONB Management Plan will be used as supplementary guidance in decision making relevant to the AONB'*.

- 9.49. Policy ESD13 of the CLP 2031 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 normally 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, or impact on areas judged to have a high level of tranquillity.
- 9.50. Further as noted above, Policy Villages 2 of CLP 2031 states that in identifying site, particular regard will be given to:
- Whether land has been previously developed land or is of less environmental value;
 - Whether development would contribute in enhancing the built environment
 - Whether significant adverse landscape and impacts could be avoided

Assessment

- 9.51. The application is accompanied by a Landscape and Visual Appraisal (LVA) prepared by Aspect Landscape Planning, which seeks to introduce the principle of development into the context of the existing landscape character, visual environment and landscape related policy to assess the ability of the site to integrate future development. In terms of the visual assessment carried out by Aspect, fieldwork was undertaken to identify a number of viewpoints in the immediate and wider setting of the site.
- 9.52. Within the Oxfordshire Wildlife & Landscape Study the site is identified as being located within the 'Rolling Valley Pastures' landscape type, and within close proximity to the 'Wooded Pasture Valleys & Slopes' landscape type which is located approximately 200m to the south. Rolling Valley Pastures' landscape type are identified as being:
- A strongly undulating landform of rounded hills and small valleys;
 - Small to medium-sized fields with mixed land uses, but predominantly pasture;
 - Densely scattered hedgerow trees;
 - Well defined nucleated villages with little dispersal into the wider countryside.
- 9.53. As noted above the site is a 'greenfield' site set at the edge of the village, and is currently in agricultural use, with the Cotswolds ANOB lying some 0.9 miles (1.5km) west of the site. Whilst acknowledging that the site currently represents an undeveloped arable field, the LVA comments on the site's context and features that detract from its immediate setting. Ultimately it concludes that the site itself is of limited landscape value given its settlement edge nature, and as such was considered to be of medium landscape value.
- 9.54. The Council's Landscape Officer (CLO) has assessed the proposals and supporting LVA and associated assessment of key viewpoints and raises no objections; largely accepting Aspect's comments within the LVA in respect of the visual receptor viewpoints. The CLO comments that '*...the indicative structure planting on the southern and western boundaries, with the appropriate native tree groupings, hedgerow and thicket species, will, over time contribute and reinforce the existing attractive 'tree-scape' across the entire village when experienced from the PRow...*'; and further that in maturity such planting would integrate the site into the village setting and mitigating the existing built edge of Cotswold Close and Margaret Fell House of Hook Norton Road.

- 9.55. Whilst noting that the proposed landscaping will take time to fully mature, the CLO highlights that the dwellings would be seen and experienced from Viewpoint 9 (VP9) west of the site, but considers that if the buildings are constructed from local stone, this will improve the visual appeal of the new urban edge.
- 9.56. The CLO does raise concerns with regards to potential views from the PRow east of the site, and initially advised that development be pushed further back into the site, but later confirmed that this was only to ensure that the existing hedgerow along the Hook Norton Road would be retained. In assessing the suitability of the site under the HEELA, it was considered that the number of dwellings achievable would be restricted to those that could be developed on the north-east corner of the site, given the topography of the site and that new development would be more intrusive the further west and south you went in the site. Officers consider it more appropriate to present a strong frontage along the Hook Norton Road rather than push development back into the site and consider that the proposed indicative layout presents an achievable scheme that would meet this objective whilst retaining the hedgerow along the frontage. (Whereas a different layout would not likely meet this objective.)
- 9.57. As noted above within the village residential buildings predominantly face onto adjacent the highway, although there are elements of back-land development, and in the immediate vicinity the more modern development of Cotswold Close sees dwellings sited around a cul-de-sac with turning head. The context existing built form at this edge of village setting is one of varying building typologies and palettes of materials. Officers consider that the proposals, whilst only in outline form, have the potential – if developed in accord with the indicative layout – to not only be reflective of the more positive elements and character of the village but also to enhance the edge of village setting, through quality landscaping, providing a more gradual transition from the built form to the rural open countryside.

Conclusion

- 9.58. Officers consider that, whilst the proposals would result in the loss of part the existing agricultural field and a greenfield site, any harm that would be caused to the wider landscape setting and setting of the Cotswold AONB would not be so significant that it would warrant a reason to refuse the application and that such impacts could be largely be mitigated through the introduction of an acceptable landscaping scheme, open space and allotments; further that the benefits of the proposals are a material consideration that would outweigh this harm.

Impact on the Historic Environment

Policy Context

- 9.59. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the Local Planning Authority gives special regard to the desirability of preserving a listed building or its setting.
- 9.60. Paragraph 189 of the NPPF states that: *“In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance.”*
- 9.61. Paragraph 193 of the NPPF states that: *“When considering the impacts 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.” Paragraph 194 of the NPPF goes on to state that: “Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification.”

- 9.62. Paragraph 196 of the NPPF states that: *“Where a development proposal 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 including, where appropriate, securing its optimum viable use.”*
- 9.63. Policy ESD15 of the CLP 2015 states that new development proposals should: *“Conserve, sustain and enhance designated ‘heritage assets’ (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG.”*

Assessment

- 9.64. The application site is not within a designated conservation area and there are no listed buildings within the immediate vicinity of the site. The Sibford Ferris Conservation Area boundary lies approximately 70m north of the site, with existing development on intervening land. The nearest listed building would be The Old House on Main Street through the village some 175m north-east of the site.
- 9.65. Given the context of the site and its site constraints there is no statutory requirement to consult with Historic England on the application, thereby relying on the Council’s own Conservation Team for advice and guidance on this matter. The Council’s Conservation Officer raises no objections to the application and officers see no reason not to agree with this opinion. The application site is outside the conservation area for Sibford Ferris and is separated from it by 20th century development; and the proposals would not generally be seen in the same context as properties within the Conservation Area. The closest Listed Buildings are on Main Street which is some distance from the development site and as such there would be no impact on these buildings or their settings.
- 9.66. Whilst it is acknowledged by officers that this is an outline application, and therefore the site layout is indicative, the indicative concept layout demonstrates properties fronting the site which appear to address the road in a similar way to the properties opposite and green space is proposed to maintain a ‘green’ edge to the village. It is considered that, whilst the proposal would introduce development where currently none exists, subject to approval of a detailed scheme the proposed development would be sympathetic to the edge of village context and would not significantly detract from the visual amenities of the surrounding area, sustaining the character of the nearby Conservation Area.
- 9.67. Records indicate that the site is not within an area identified as being of any significant archaeological interest; however, it is considered by the County Council’s Archaeologist that this may just be down to the lack of any formal investigative work. The application was initially supported by an archaeological desk based assessment by Orion Heritage which concluded that the site has low archaeological potential for all periods. However, following concerns and an objection being raised by OCC’s Archaeologist, a further interim geophysical survey was undertaken which showed that there were potential archaeological features within the north-eastern part of the site.
- 9.68. Further investigative work, including trenching, has been agreed with the applicant and such works are to commence on site (w/c 08/04/2019) following a written investigation being agreed with the County’s Archaeologist; and whilst the potential

for significant archaeological interest is considered to be relatively low, the outcome of an evaluation was not available at the time of the preparation of this report to confirm such matters. It is considered likely that any such archaeological issues could be resolved through appropriate conditions attached to any such permission. However, it is considered appropriate to wait to receive County Council's Archaeologist's response to ensure that any such conditions would be appropriate and meet the tests for use of conditions as set out within the NPPF.

Conclusion

- 9.69. Subject to there being no adverse comments being made by the County Archaeologist once any archaeological potential is fully realised, it is considered unlikely that the proposals would result in any significant harm on features of archaeological significance.
- 9.70. It is considered that the proposed development would not result in any significant harm to the character and appearance of the Conservation Area, its setting or the setting of any Listed Buildings, and as a result the significance of these Heritage Assets will not be harmed; in line with Policy ESD15 of the CLP 2031 and Government guidance within the NPPF.

Transport and Highways Impact

Policy Context

- 9.71. The NPPF (Para. 108) states that the planning system should actively manage patterns of growth in support of the achievement of promoting sustainable transport. However, notes that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.
- 9.72. The NPPF (Para. 108) advises that in assessing specific applications for development, it should be ensured that:
- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
 - b) safe and suitable access to the site can be achieved for all users; and
 - c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 9.73. Both Policies ESD15 and SLE4 of the CLP 2031 reflect the provision and aims of the NPPF. Policy ESD15 of the CLP 2031 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”*; whilst 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”*.
- 9.74. Policy TR7 states that: *‘Development that would regularly attract large commercial vehicles or large numbers of cars onto unsuitable minor roads will not normally be permitted’*.

Assessment

- 9.75. Given that all matters are reserved for future consideration, including access and layout, it is only the principle of the development and associated potential transport related issues that can be considered at this stage. However, the applicants have submitted a concept plan, which shows an indicative access, and a detailed Transport Statement in support of the application, which allows for an appropriate assessment of these potential transport impacts.
- 9.76. Whilst it is acknowledged that significant concerns have been raised in representations in objection to the application, in terms of highway safety and impacts on the local road network. However, the Local Highway Authority (LHA) have assessed the detailed submission and has raised no objection to the proposal subject to conditions, S106 contributions and an obligation to enter into a S278 agreement.
- 9.77. The LHA highlights that the proposed development is within a Category A village, a service village as identified within the Development Plan, and as such it is important from a strategy point of view that the residents of the proposed development would be able to access the shop/Post Office. As noted in third party comments the footway is not complete through the village to these services and facilities; however, the LHA advises that the route to services would be no more problematic than for the residents of the existing dwellings in Cotswold Close and on Hook Norton Road. And further that there is existing network of PRow routes through the village that would be accessible from the site.
- 9.78. The applicants have submitted a detailed Transport Statement (TS) in support of the application, updated during the course of the application (to include details of where the automated traffic counters (ATCs)). The LHA considers the TS and its detail to be appropriate for the scale of development proposed.
- 9.79. TRICS (Trip Rate Information Computer System) is a database of trip rates for developments used in the United Kingdom for transport planning purposes, specifically to quantify the trip generation of new developments. An analysis determines an average amount of vehicle movements based on actual counts from existing developments. With regards to potential trip generation, the TS uses this TRICS data to calculate potential traffic movements and the LHA are satisfied that this reasonably concludes a trip rate of 0.5 per dwelling in the morning peak hour, which would equate to 13 two-way movements (10 out and 3 in).
- 9.80. The TS also calculates a distribution equating to 5 out of 6 movements southwards from the site access. The LHA consider that this appears to be rather skewed, especially as the out-and-back trips are likely to be local, to the facilities in the village and Sibford Gower, both to the north, and this is similar to concerns raised in representations in objection to the application. However, the LHA advises that: *'as a worst case, if (say) 10 of the 13 movements were to the north, this would equate to one additional car every 6 minutes. Compared to the 5-day average two-way vehicle flow for the morning peak of 209 (111 northbound plus 98 southbound, from the northern site ATC), this equates to an increase of less than 5%'*.
- 9.81. The NPPF (Para. 109) states that: 'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'.
- 9.82. Significant comment is made in representations with regard to the 'pinch-points' in the road network through the village and the impact of traffic at peak times, particularly at pick-up and drop-off times of Sibford School. Whilst officers acknowledge that this is an issue, given that the LHA concludes that the proposed development would not result in a significant increase in traffic generation (5%

increase) - and raises no objection in this respect, it is considered that the potential impacts on the local road network would not warrant a reason to refuse the application on these grounds that could be sustained.

- 9.83. With regards to access at the site, whilst the detailed of any such access is reserved for future consideration, the applicant provides an indicative access point shown on the submitted Schematic Concept plan (Drwg. 3361.101). Whilst the proposed site entrance would be well within the existing 30mph speed limit, from measured survey data (with Automated Traffic Counters (ATCs) having been sited at sites either side of the proposed access), the TS indicates that the average 85thile speeds recorded are as: Southbound (at northern site) 37.8mph and Northbound (at southern site) 34.0mph.
- 9.84. The LHA considers Manual for Streets (MfS) to be appropriate in assessing the acceptability of the access, however disagrees with the vision splays identified as being necessary within the TS (paras. 4.3 and 4.4); based on the speeds identified from survey data. However, the LHA further concludes that appropriate vision splays could be achieved, through the relocation of the speed limit further to the south given the geometry of the existing road.
- 9.85. The northern site is well within the residential area and 30mph speed limit. The southbound traffic speed identified by the survey requires a visibility splay of approximately 60m, rather than the 43m (TS para. 4.3). However, the available visibility of 90m is considered more than adequate by the LHA.
- 9.86. In respect of northbound vehicles, these will become visible from the access whilst they are still within the National Speed Limit. The 85 percentile speed of 34mph (measured by the ATC at the speed limit sign) requires a visibility of 52m, which is marginally less than the 55m that is possible. The LHA considers that in order for the MfS criteria to apply, the 30mph speed limit would need to be relocated further to the south – the logical place would be to coincide with the village sign. Further that speed reduction would also best be highlighted by the addition of “dragon’s teeth” lining and a single gateway feature.
- 9.87. It is considered that the requirements of the LHA could be secured through appropriate conditions, S106 contributions required to fund the change to the Traffic Regulation Order (moving of speed limit and the physical works and a further S278 agreement in respect of works within the highway. Subject to these matters being satisfactorily addressed it is considered that an acceptable access could be achieved and the proposals would be acceptable in this regard.
- 9.88. The LHA has provided advice on what should be provided at the reserved matters stage should outline permission be granted, including parking standards that would need to be adhered to, road and footpath widths, swept path analysis for refuse vehicles for all manoeuvres in forward gear and visibility splays. Whilst the detailed layout is for future consideration, it is considered that an appropriate layout could be achieved and parking provision for both vehicles and cycles could be accommodated within the site that would not exacerbate on-street parking within the area of the site.
- 9.89. In terms of Public Rights of Way the proposals would not have a direct impact on any authorised routes, other than in a visual nature. The LHA welcomes the addition of a continuous pedestrian route across the site which would connect the two existing PRoW, 347/2 (at the western boundary) and 347/4 (to the east), but confirms that in their opinion footpath is not dedicated, but that the western section is provided as part of the Public Open Space and secured by a legal agreement and the eastern section is incorporated in the S38 adoptable highway. Further that

the specification of the path through the open space/orchard can be decided by the district council, to best suit the landscape.

- 9.90. In respect of public transport the LHA acknowledges that the existing 3A bus service to Banbury is of a low frequency and offers limited connectivity; and ultimately any new dwelling residents will be car-dependent for most trips. However, the LHA further advises that: 'Given the small scale of the development, any financial contribution to improving bus operations or service frequency for the 3A service is unlikely to be sufficient'.

Conclusion

- 9.91. The LHA concludes that the proposal would not have a significant adverse impact upon the safe and efficient operation of the highway network subject to conditions, S106 contributions and an obligation to enter into a S278 agreement. Whilst officers acknowledge the concerns of the Parish Councils and local residents in respect of traffic flow through the village at peak times, given that it is considered that the proposals would not result in a significant increase in traffic movements officers see no reason to disagree with the LHA's assessment.

Impact on Residential Amenity

Policy Context

- 9.92. Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. These provisions are echoed in Policy ESD15 of the CLP 2031 which states that: '*new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space*'.

Assessment

- 9.93. The application is in outline only. Any detailed proposals would need to have due regard to requirements of Section 6 of the Residential Design Guide SPD with regard to appropriate standards of amenity for both existing and future residents. Appropriate positioning and scale of dwellings, boundary treatments and the nature of such treatments could be given due consideration at reserved matters stage.
- 9.94. The nearest residential properties to the site would be High Rock adjacent the boundary of the site to the north and properties along the eastern side of the Hook Norton Road to the east of the site.
- 9.95. High Rock dwellinghouse sits some 13 metres off the boundary of the proposed site with a mature hedgerow and a number of trees along this boundary. It is considered that, subject to appropriate scale and design of any proposed dwellings along the northern boundary of the site, and retention and potential enhancement of existing boundary planting it is likely that a satisfactory layout could be achieved that would unlikely result in any significant unacceptable impacts on the residential amenity of the neighbouring residential properties.
- 9.96. Existing properties along the Hook Norton Road would face the frontage of the proposed site; however, would be separated from the site by the Hook Norton Road. It is considered that the degree separation provided by the highway would ensure that the amenity currently enjoyed by these properties would not be unduly affected by the proposed development.

- 9.97. Assessment of internal amenity with the proposed dwellings would be a matter for consideration at any such detailed application stage. Whilst only indicative at this stage, the concept layout indicates an appropriate layout that would provide for both public and private outdoor amenity space that would allow for an acceptable standard of living to be achieved for potential future occupants. Outdoor amenity standards would be further enhancement through the provision of the proposed LAP, Public Orchard, Allotments, Open Space and links to PRow.

Conclusion

- 9.98. Given the above, officers are satisfied that the development can be made acceptable in residential amenity terms, both for existing residents neighbouring the site and future occupiers, with acceptable details to be secured at reserved matters stage.

Flooding Risk and Drainage

Policy Context

- 9.99. 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.
- 9.100. Policy ESD7 of the CLP 2015 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District.

Assessment

- 9.101. A site-specific Flood Risk Assessment (FRA) prepared JNP Group Consulting Engineers has been submitted in support of the application. The Environment Agency's flood maps indicate that site is not within a higher risk flood zone and are within Flood Zone 1 where residential development is acceptable in principle subject to no increased flood risk elsewhere as a result of proposal.
- 9.102. The FRA identifies that the site does has the potential to be affected by a risk of flooding from 'perched', groundwater, due to impermeable 'Whitby Mudstone' being encountered at shallow depths in the southern end of the site, but generally that the site is at a low risk from other sources of flooding. The FRA sets out that further investigation is required, but that flood risk can be likely be mitigated to an acceptable level through an appropriate drainage strategy and certain mitigation measures.
- 9.103. The drainage strategy put forward within the application considers a range of SuDS (A sustainable drainage system) across the site, which includes Soakaways, Swales, Permeable Paving, and Ponds.
- 9.104. The County Council's Drainage Team has assessed the proposals and raises no objections based on the submitted information, but indicates that whilst some positive soakaway test have been undertaken at the site further investigative work needs to be undertaken to inform the detailed requirements of a satisfactory drainage which embraces the principles of SuDs. The Drainage Team further advises of the need for assessment of potential flood routing across the site in the event of exceedance conditions and for a requirement of further details in respect of SuDS Management and Maintenance Plan.

- 9.105. Third party comments have raised concerns with regards to the capacity of the Sewage system and its ability to cope with additional load as a result of the proposed development. Severn Trent Water (STW) who provides waste water/sewage services, whilst noting that further modelling work is required sewer modelling assessment will be required due to pumped system being proposed, have confirmed that they raise no objections to the application, and that appropriate information i.e. sewage drainage strategy could be secured through an appropriate condition. The further note that any potential capital improvements that are required will not require any contributions from the applicant as that is done at Severn Trent's cost.

Conclusion

- 9.106. Officers consider that, in light of there being no technical objections being raised, and subject to appropriate conditions securing an a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development and an acceptable sewage drainage strategy, the proposals could be considered acceptable in terms of flood-risk and drainage.

Impact on Local Infrastructure

Policy Context

- 9.107. 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.”*
- 9.108. 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.”*
- 9.109. Policy BSC3 of the CLP 2015 states that: *“At Kidlington and elsewhere, all proposed developments that include 11 or more dwellings (gross), or which would be provided on sites suitable for 11 or more dwellings (gross), will be expected to provide at least 35% of new housing as affordable homes on site.”* Policy BSC3 requires this to be a mix of affordable rent and intermediate tenure.
- 9.110. The Council has an adopted 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

- 9.111. 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:

- i. Necessary to make the development acceptable in planning terms;
- ii. Directly related to the development;
- iii. Fairly and reasonably related in scale and kind to the development.

9.112. 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.

9.113. Having regard to the above, 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 35% affordable housing together with 70/30 tenure split between social rented and shared ownership or other low cost home ownership which should be agreed with CDC;
- Provision of public open amenity space and future maintenance arrangements;
- Provision of a combined on-site LAP together with future maintenance arrangements;
- Maintenance arrangements for on-site trees, hedgerows, and drainage features;
- Payment of a financial contribution towards the provision of refuse/recycling bins for the development.
- Financial contributions towards improvements to off-site indoor and outdoor sports facilities;
- Financial contribution towards the provision of new community hall facilities or the improvement/expansion of existing facilities where there is not enough space capacity in existing appropriate facilities.

Oxfordshire County Council

- Public Transport Infrastructure Financial Contribution of £20,000 towards a new bus shelter and hardstanding for the existing bus stop on Main Street, Sibford Ferris;
- Traffic Regulation Order Financial Contribution of £4,850 towards the alteration of the speed limit TRO on Hook Norton Road, and provision of a gateway feature and highway markings
- To secure entry into a S278 agreement (Highways Act 1980) to secure mitigation/improvement works, including: Formation of a new site access and provision of a footway from the pedestrian access on Hook Norton Road to the existing footway network

9.114. In terms of education OCC considers that there is sufficient capacity in terms of primary and early years in the area. In terms of Secondary and SEN OCC considers that education contributions meet the tests required by Regulation 122 (2) of the CIL Regulations but they are not sought due to Regulation 123; in that the limit of pooled contributions (5 contributions) have previously received in relation to these facilities within the area.

9.115. 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. Thus, officers do not consider that they can request contributions towards health care infrastructure.

9.116. *Conclusion*

9.117. 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 adverse impacts that would otherwise occur.

Ecology and Biodiversity

Legislative context

9.118. 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.

9.119. 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.

9.120. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.

9.121. 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.

9.122. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipe-lines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

Policy Context

9.123. 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.

9.124. 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.

9.125. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

9.126. 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.

9.127. Policy ESD11 is concerned with Conservation Target Areas (CTAs), and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.

9.128. These policies are both supported by national policy in the NPPF and also, 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.

9.129. 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

9.130. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:

- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development

It also states that LPAs can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
- an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')

9.131. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site whilst not considered to contain any significant features of ecological and biodiversity value there are a number of mature trees and hedgerows that bound the site, and therefore has the potential to be suitable habitat for bats, breeding birds and badgers.

9.132. In order for the local planning authority to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, local planning authorities must firstly assess whether an offence under the Regulations is likely to be committed. If so, the local planning authority should then consider whether Natural England would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.

9.133. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/very likely that Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.

9.134. The application is supported by a detailed Ecological Impact Assessment prepared by Prime Environment which concluded that there are no major constraints on site with it largely being an arable field; and that only minor mitigation measures would be required to protect badgers and birds during construction; and that ultimately the proposals would likely deliver a net gain to the area's local biodiversity through the creation of new habitats, orchards, allotments and public open space.

9.135. The Council's Ecologist has assessed the submitted report and is satisfied with the detail of the report and its recommendations and mitigation measures, considering the proposals '*...likely to lead to a fair biodiversity gain*'. However, the Ecologist considers it both necessary and appropriate to secure further information by way conditions with regards to how habitats on site will be created, managed and funded and further in relation details of the measures to be taken to ensure that construction works do not adversely affect biodiversity; to ensure protection

habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 and national guidance.

Conclusion

- 9.136. Officers are satisfied, on the basis of the advice from the Council's Ecologist and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

Human Rights and Equalities

- 9.137. The Human Rights Act 1998 ("HRA") sets out fundamental freedoms which have been laid out by the European Convention on Human Rights ("ECHR"). In making any decisions, Cherwell District Council ("the Council") should have due regard to and take into account any implications that may arise under the HRA. As a public authority, it is unlawful for the Council to act in a manner which is incompatible with the ECHR.
- 9.138. The rights under the ECHR which the Council views as being the most likely to affect planning matters are Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

Article 8 and Article 1 of the First Protocol

- 9.139. Officers have considered the duties under both Article 8 and Article 1 of the First Protocol and have resolved that the application does respect the private and family life of neighbours and does not fail to protect the neighbours' property.

Duty under The Equalities Act 2010

- 9.140. S149 of the Equalities Act 2010 ("EA") sets out what is known as the Public Sector Equality Duty ("PSED"). Under the PSED, the Council, as a public authority, must have due regard to the need to, inter alia, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and has to foster good relations between persons who share a relevant protected characteristic and persons who so not share it. The protected characteristics to which the PSED refers are: (a) age; (b) disability; (c) gender reassignment; (d) pregnancy and maternity; (e) race; (f) religion or belief; (g) sex; (h) sexual orientation.
- 9.141. Officers have considered the application and resolved that none of the protected characteristics is affected or potentially affected by the application.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 advises that the three dimensions to sustainable development (economic, social and environmental), which are interdependent; need to be pursued in mutually supportive ways.
- 10.2. Government guidance within the NPPF supports the plan-led system and advises that applications that accord with an up-to-date plan should be approved without delay.

- 10.3. In reaching an informed decision on planning applications there is a need for the Local Planning Authority to undertake a balancing exercise to examine whether the adverse impacts of a development would be outweighed by the benefits such that, notwithstanding the harm, it could be considered sustainable development within the meaning given in the NPPF. In carrying out the balancing exercise it is, therefore, necessary to take into account policies in the development plan as well as those in the NPPF. It is also necessary to recognise that Section 38 of the 1990 Act continues to require decisions to be made in accordance with the development plan and the NPPF highlights the importance of the plan led system as a whole.
- 10.4. The site is unallocated in the adopted CLP 2031. Sibford Ferris is designated a Category A Village under Policy Villages 1 of the CLP 2031 and as such suitable for minor development within its built up limits. Policy Villages 2 supports development of sites for more than 10 homes in the Category A villages in certain circumstances. 750 homes are to be delivered across these villages. When considering sites under this Policy a number of considerations apply relating to the site's environmental value and impact and deliverability. It is considered that the site would broadly comply with these criteria.
- 10.5. Whilst the Sibfords have not seen any significant new residential development under Policy Villages 2 of the CLP 2031, it is acknowledged that the 750 distribution of homes across the Category A villages during the plan period is already close to being met in terms of permissions granted/resolved. The Council's housing land supply position is also noted. However, 750 dwellings is not a ceiling and the actual delivery of dwellings under this policy currently falls below 750, and in officers' opinion to permit a modest development of 25 additional dwellings at one of the three main Category A settlements not to have received development under Policy Villages 2 would not be so significant to the extent that it would undermine the Council's overall spatial housing strategy.
- 10.6. The proposals are considered acceptable in terms of transport, heritage impact and neighbour amenity. It is further considered that an acceptable drainage solution is achievable at the site that would ensure that flood-risk is not exacerbated. It is acknowledged that the proposals would result in the loss of a 'Greenfield' site and agricultural land, but that such impacts could be largely be mitigated through the introduction of an acceptable landscaping scheme, open space and allotments, potentially enhancing the edge of village setting.
- 10.7. The development would make a valuable contribution to housing delivery (including affordable housing) and the provision of areas of public open space for the whole community would also be a benefit, as would any resultant ecological enhancements. There would also be some economic benefit in the support of construction jobs and spending in the area those future residents would bring about. It is considered that these benefits are material considerations that would outweigh any limited conflict with development plan policies and any harm that would be caused in this instance.
- 10.8. Given the above assessment and in light of current guiding national and local policy set out in the report, the officers consider that the proposal would amount to sustainable development for which Government policy sets a presumption in favour and is therefore recommended for approval.

11. RECOMMENDATION

RECOMMENDATION: DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND ECONOMY TO GRANT PERMISSION SUBJECT TO NO OBJECTIONS FROM COUNTY COUNCIL'S ARCHAEOLOGIST AND SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE

CONDITIONS AS DEEMED NECESSARY) AND THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):

- a) Provision of 35% affordable housing together with 70/30 tenure split between social rented and shared ownership or other low cost home ownership which should be agreed with CDC;**
- b) Provision of public open amenity space and future maintenance arrangements;**
- c) Provision of a combined on-site LAP together with future maintenance arrangements;**
- d) Maintenance arrangements for on-site trees, hedgerows, and drainage features;**
- e) Payment of a financial contribution towards the provision of refuse/recycling bins for the development.**
- f) Financial contributions towards improvements to off-site indoor and outdoor sports facilities;**
- g) Financial contribution towards the provision of new community hall facilities or the improvement/expansion of existing facilities where there is not enough space capacity in existing appropriate facilities.**
- h) Public Transport Infrastructure Financial Contribution of £20,000 towards a new bus shelter and hardstanding for the existing bus stop on Main Street, Sibford Ferris;**
- i) Traffic Regulation Order Financial Contribution of £4,850 towards the alteration of the speed limit TRO on Hook Norton Road, and provision of a gateway feature and highway markings**
- j) To secure entry into a S278 agreement (Highways Act 1980) to secure mitigation/improvement works, including: Formation of a new site access and provision of a footway from the pedestrian access on Hook Norton Road to the existing footway network**

CONDITIONS

General Implementation

1. No development shall commence until full details of the access, layout (including the layout of the internal access roads and footpaths), scale, appearance, and landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.

Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

2. In the case of the reserved matters, the final application for approval shall be made not later than the expiration of three years beginning with the date of this permission. Each application shall demonstrate how the design and access principles shown on drawings 6426/SAP3/PP Rev. C - Parameter Plan and 6426/ASP4/LSP Rev. A - Landscape Strategy Plan have been used to inform the reserved matters.

Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

3. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

Reason : To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended).

4. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Design and Access Statement; Flood Risk Assessment; Arboricultural Impact Assessment; Ecological Impact Assessment; Archaeological Desk-Based Assessment; Flood Risk Assessment and drainage Strategy Report and drawings labelled: 3361.101 - Concept Schematic, 6426/SAP3/PP Rev. C - Parameter Plan and 6426/ASP4/LSP Rev. A - Landscape Strategy Plan.

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

5. No development shall take place until details of all finished floor levels in relation to existing and proposed site levels and to the adjacent buildings have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be constructed in accordance with the approved levels.

Reason: In order to safeguard the visual amenities of the area in accordance with advice within Section 12 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Highways and Transport

6. Prior to the commencement of the development hereby approved, full details of the means of access between the land and the highway shall be submitted to and approved in writing by the Local Planning Authority. The access shall be broadly in accordance with the positioning indicated on the approved plan 3361.101 - Concept Schematic, 6426/SAP3/PP and include details of layout, and vision splays. Thereafter, and prior to the first occupation of any of the development, the means of access shall be constructed and retained in accordance with the approved details.

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

7. Prior to commencement of the development hereby approved, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Construction Traffic

Management Plan shall be implemented and operated in accordance with the approved details.

Reason: In the interests of highway safety and the residential amenities of neighbouring occupiers and to comply with Government guidance contained within the National Planning Policy Framework.

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

Reason: to ensure all residents and employees are aware of the travel choices available to them from the outset

Drainage

9. Prior to the commencement of the development hereby approved, full details of a drainage strategy for the entire site, detailing all on and off site drainage works required in relation to the development which shall be broadly in accordance with the drainage proposals set out in the submitted Flood Risk Assessment produced by JNP Group Consulting Engineers (unless otherwise agreed in writing), and which shall include a Sewer Modelling Assessment, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the drainage works shall be carried out and completed in accordance with the approved strategy, until which time no discharge of foul or surface water from the site shall be accepted into the public system. The scheme shall also include:
 - Discharge Rates
 - Discharge Volumes
 - SUDS (Permeable Paving, Soakaways, Infiltration devices, Attenuation Pond, Swales)
 - Sizing of features – attenuation volume
 - Maintenance and management of SUDS features (To include provision of a SuDS Management and Maintenance Plan)
 - Infiltration in accordance with BRE365 (To include comprehensive infiltration testing and annual monitoring and recording of groundwater levels across the site)
 - Detailed drainage layout with pipe numbers
 - Network drainage calculations
 - Phasing
 - Flood Flow Routing in exceedance conditions (To include provision of a flood exceedance route plan)

Reason: To ensure that sufficient capacity is made available to accommodate the new development and in order to avoid adverse environmental impact upon the community in accordance with Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Ecology and Biodiversity

10. Prior to the commencement of the development hereby approved, a Landscape and Ecology Management Plan (LEMP), showing how all habitats on site will be created, managed and funded and to include details of a bat and bird box scheme shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in strict accordance with the approved LEMP.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within Section 15 of the National Planning Policy Framework.

11. Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance, a Construction Environmental Management Plan (CEMP), which shall include details of the measures to be taken to ensure that construction works do not adversely affect biodiversity, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in strict accordance with the approved CEMP.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Contamination

12. If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

Reason: To ensure that any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

Planning Notes:

1. Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.
2. In the submission of reserved matter details for approval, it is expected that the new scheme will closely follow the indicative plans, layout and landscaping strategy accompanying this application.
3. In respect of condition 7 the CTMP should look to detail:
 - The CTMP must be appropriately titled, include the site and

planning permission number.

- Routing of construction traffic and delivery vehicles is required to be shown and signed appropriately to the necessary standards/requirements. This includes means of access into the site.
- Details of and approval of any road closures needed during construction.
- Details of and approval of any traffic management needed during construction.
- Details of wheel cleaning/wash facilities – to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway.
- Details of appropriate signing, to accord with the necessary standards/requirements, for pedestrians during construction works, including any footpath diversions.
- The erection and maintenance of security hoarding / scaffolding if required.
- A regime to inspect and maintain all signing, barriers etc.
- Contact details of the Project Manager and Site Supervisor responsible for on-site works to be provided.
- The use of appropriately trained, qualified• No unnecessary parking of site related vehicles (worker transport etc) in the vicinity – details of where these will be parked and occupiers transported to/from site to be submitted for consideration and approval. Areas to be shown on a plan not less than 1:500.
- Layout plan of the site that shows structures, roads, site storage, compound, pedestrian routes etc.
- A before-work commencement highway condition survey and agreement with a representative of the Highways Depot – contact 0345 310 1111. Final correspondence is required to be submitted.
- Local residents to be kept informed of significant deliveries and liaised with through the project. Contact details for person to whom issues should be raised with in first instance to be provided and a record kept of these and subsequent resolution.
- Any temporary access arrangements to be agreed with and approved by Highways Depot.
- Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours.

4. Your attention is drawn to the need to have regard to the requirements of UK and European legislation relating to the protection of certain wild plants and animals. Approval under that legislation will be required and a licence may be necessary if protected species or habitats are affected by the development. If protected species are discovered you must be aware that to proceed with the development without seeking advice from Natural England could result in prosecution. For further information or to obtain approval contact Natural England on 0300 060 3900.
5. Bats are a highly mobile species which move between a number of roosts throughout the year. Therefore all works must proceed with caution and should any bats be found during the course of works all activity in that area must cease until a bat consultant has been contacted for advice on how to proceed. Under the Wildlife & Countryside Act 1981 (as amended) and the Habitat and Species Regulations 2010 it is illegal to intentionally or recklessly disturb, harm or kill bats or destroy their resting places.
6. Birds and their nests are fully protected under the Wildlife and Countryside Act

1981 (as amended), which makes it an offence to intentionally take, damage or destroy the eggs, young or nest of a bird whilst it is being built or in use. Disturbance to nesting birds can be avoided by carrying out vegetation removal or building work outside the breeding season, which is March to August inclusive.

7. Prior to commencement of development, a separate consent must be obtained from OCC Road Agreements Team for the new highway vehicular access under S278 of the Highway Act. Contact: 01865 815700; RoadAgreements@oxfordshire.gov.uk.
8. Please note the Advance Payments Code (APC), Sections 219-225 of the Highways Act, is in force in the county to ensure financial security from the developer to off-set the frontage owners' liability for private street works, typically in the form of a cash deposit or bond. Should a developer wish for a street or estate to remain private then to secure exemption from the APC procedure a 'Private Road Agreement' must be entered into with the County Council to protect the interests of prospective frontage owners.

CASE OFFICER: Bob Neville

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