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Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

Committee: Planning Committee

Date: Thursday 7 December 2023

Time: 4.00 pm

Venue Bodicote House, Bodicote, Banbury, Oxon OX15 4AA

Membership

Councillor George Reynolds (Chairman)

Councillor Andrew Beere
Councillor John Broad
Councillor Becky Clarke MBE
Councillor Ian Harwood
Councillor Fiona Mawson
Councillor Julian Nedelcu
Councillor Les Sibley
Councillor Amanda Watkins

Councillor Maurice Billington (Vice- Chairman)

Councillor Rebecca Biegel
Councillor Phil Chapman
Councillor Jean Conway
Councillor Simon Holland
Councillor Lesley McLean
Councillor Lynn Pratt
Councillor Nigel Simpson
Councillor Barry Wood

Substitutes

Councillor Sandy Dallimore
Councillor David Hingley
Councillor Harry Knight
Councillor Ian Middleton
Councillor Dorothy Walker
Councillor Bryn Williams

Councillor John Donaldson
Councillor Matt Hodgson
Councillor Andrew McHugh
Councillor Dan Sames
Councillor Douglas Webb
Councillor Sean Woodcock

AGENDA

1. Apologies for Absence and Notification of Substitute Members

2. Declarations of Interest

Members are asked to declare any interest and the nature of that interest which they may have in any of the items under consideration at this meeting

3. Requests to Address the Meeting

The Chairman to report on any requests to address the meeting.

Please note that the deadline for requests to address the meeting is noon on the working day before the meeting. Addresses can be made virtually or in person.

4. **Minutes** (Pages 5 - 27)

To confirm as a correct record the Minutes of the meeting of the Committee held on 2 November 2023.

5. **Chairman's Announcements**

To receive communications from the Chairman.

6. **Urgent Business**

The Chairman to advise whether they have agreed to any item of urgent business being admitted to the agenda.

7. **Proposed Pre-Committee Site Visits (if any)**

The Committee to consider requests for and proposed pre-committee site visits.

Any requests or recommendations for site visits will be published with the written update.

Planning Applications

8. **Land North Of 66 And Adjacent Water Eaton Lane Gosford** (Pages 30 - 83)
22/03883/F

9. **Land West of Oxford Close and North of Corner Farm, Station Road, Kirtlington** (Pages 84 - 122)
23/02338/OUT

10. **OS Parcel 0622 South of Jersey Cottages and East of Heyford Road, Kirtlington** (Pages 123 - 171)
23/02471/F

11. **1 Elizabeth Rise Banbury OX16 9LZ** (Pages 172 - 181)
23/02821/F

Review and Monitoring Reports

12. **Appeals Progress Report** (Pages 182 - 194)

Report of Assistant Director Planning and Development

Purpose of report

To keep Members informed about planning appeal progress including decisions received and the scheduling of public inquiries and hearings for new and current appeals.

Recommendations

The meeting is recommended:

- 1.1 To note the position on planning appeals contained within the report.

13. Planning Performance Report (Pages 195 - 202)

Report of Assistant Director Planning Policy and Development

Purpose of report

This report details the Council's performance in determining planning applications for the Government's targets on Speed and Quality, as well as general performance figures.

Recommendations

- 1.1 To note the report

Councillors are requested to collect any post from their pigeon hole in the Members Room at the end of the meeting.

Information about this Agenda

Apologies for Absence

Apologies for absence should be notified to democracy@cherwell-dc.gov.uk or 01295 221534 prior to the start of the meeting.

Declarations of Interest

Members are asked to declare interests at item 2 on the agenda or if arriving after the start of the meeting, at the start of the relevant agenda item.

Local Government and Finance Act 1992 – Budget Setting, Contracts & Supplementary Estimates

Members are reminded that any member who is two months in arrears with Council Tax must declare the fact and may speak but not vote on any decision which involves budget setting, extending or agreeing contracts or incurring expenditure not provided for in the agreed budget for a given year and could affect calculations on the level of Council Tax.

Evacuation Procedure

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the car park as directed by Democratic Services staff and await further instructions.

Access to Meetings

If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named below, giving as much notice as possible before the meeting.

Mobile Phones

Please ensure that any device is switched to silent operation or switched off.

Webcasting and Broadcasting Notice

The meeting will be recorded by the council for live and/or subsequent broadcast on the council's website. The whole of the meeting will be recorded, except when confidential or exempt items are being considered. The webcast will be retained on the website for 6 months.

If you make a representation to the meeting, you will be deemed by the council to have consented to being recorded. By entering the Council Chamber, you are consenting to being recorded and to the possible use of those images for and sound recordings for webcasting and/or training purposes.

The council is obliged, by law, to allow members of the public to take photographs, film, audio-record, and report on proceedings. The council will only seek to prevent this should it be undertaken in a disruptive or otherwise inappropriate manner.

Queries Regarding this Agenda

Please contact Aaron Hetherington / Matt Swinford, Democratic and Elections
democracy@cherwell-dc.gov.uk, 01295 221534

Yvonne Rees
Chief Executive

Published on Wednesday 29 November 2023

Cherwell District Council

Planning Committee

Minutes of a meeting of the Planning Committee held at Bodicote House, Bodicote, Banbury, Oxon OX15 4AA, on 2 November 2023 at 4.00 pm

Present:

Councillor George Reynolds (Chairman)
Councillor Andrew Beere
Councillor Rebecca Biegel
Councillor John Broad
Councillor Phil Chapman
Councillor Becky Clarke MBE
Councillor Jean Conway
Councillor Ian Harwood
Councillor Lesley McLean
Councillor Julian Nedelcu
Councillor Lynn Pratt
Councillor Les Sibley
Councillor Nigel Simpson
Councillor Amanda Watkins
Councillor Barry Wood

Substitute Members:

Councillor Sandy Dallimore (In place of Councillor Simon Holland)
Councillor Dorothy Walker (In place of Councillor Fiona Mawson)
Councillor Douglas Webb (In place of Councillor Maurice Billington)

Apologies for absence:

Councillor Maurice Billington
Councillor Simon Holland
Councillor Fiona Mawson

Officers:

Shiraz Sheikh, Assistant Director Law & Governance and Monitoring Officer
Paul Seckington, Head of Development Management
Nat Stock, Team Leader - North Area General Developments
Andrew Thompson, Principal Planning Officer
Linda Griffiths, Principal Planning Officer
Rebekah Morgan, Principal Planning Officer
Imogen Hopkin, Senior Planning Officer
Karen Jordan, Deputy Principal Solicitor
Aaron Hetherington, Principal Officer - Electoral Services Lead

Matt Swinford, Democratic and Elections Officer
David Rogers, Democratic and Elections Officer

69 **Declarations of Interest**

12. Whitelands Farm Sports Ground, Whitelands Way, Bicester, OX26 1AJ.

Councillor Les Sibley, Other Registerable Interest, as a member of Bicester Town Council Planning Committee.

70 **Requests to Address the Meeting**

The Chairman advised that requests to address the meeting would be dealt with at each item.

71 **Minutes**

The Minutes of the meeting held on 5 October 2023 were agreed as a correct record and signed by the Chairman.

72 **Chairman's Announcements**

The Chairman made the following announcement:

1. Advised members of the public attending the meeting that only registered speakers may address the Committee and requested that they did not cause a disturbance.

73 **Urgent Business**

There were no items of urgent business.

74 **Proposed Pre-Committee Site Visits (if any)**

There were no proposed Pre-Committee site visits.

75 **OS Parcel 3673 Adjoining And West Of 161 Rutten Lane, Yarnton, OX5 1LT**

The Committee considered application 21/03522/OUT, an outline planning application for the erection of up to 540 dwellings (Class C3), up to 9,000sqm GEA of elderly/extra care residential floorspace (Class C2), a Community Home Work Hub (up to 200sqm)(Class E), alongside the creation of two locally equipped areas for play, one NEAP, up to 1.8 hectares of playing

pitches and amenity space for the William Fletcher Primary School, two vehicular access points, green infrastructure, areas of public open space, two community woodland areas, a local nature reserve, footpaths, tree planting, restoration of historic hedgerow, and associated works with all matters are reserved, save for the principal access points at OS Parcel 3673 Adjoining And West Of 161 Rutten Lane Yarnton OX5 1LT for Merton College.

Dave Thornhill and Steve Smith, on behalf of Yarnton Flood Defence Group and Yarnton Parish Council addressed the Committee in objection to the application.

Robert Davies, on behalf of the agent for the applicant, Gerald Eve, addressed the Committee in support of the application.

Members were asked for their observations regarding what their determination would have been, had an appeal against the non-determination of the application not been lodged.

In reaching its decision the Committee considered the officers' report, presentation, addresses from the public speakers and the written updates.

Resolved

That, in line with the officer's recommendation, had the power to determine application 21/03522/OUT continued to rest with the Committee, the Committee would have refused application 21/03522/OUT for the following reasons.

1. The proposal has failed to adequately demonstrate that the application will deliver the public open space in the form of an informal parkland as specifically required by Policy PR9 which is required as a consequence of removing the allocated land from the Green Belt. As such the proposal is contrary to Policy PR9 of the Cherwell Local Plan Review 2020, the approved Development Brief and Government guidance within the National Planning Policy Framework.

Note to Appellant: This reason for refusal is capable of being addressed.

2. The proposal has failed to adequately demonstrate that the development would not impact existing flora and fauna and that ecological mitigation would successfully deliver a 10% net gain in biodiversity and to ensure the protection, enhancement and connectivity with the local green infrastructure network alongside the successful delivery of the Local Nature Reserve. As such the proposal fails to accord with Policies ESD9, ESD10 and ESD13 of the adopted Cherwell Local Plan 2011-2031, Policies PR5 and PR9 of the Cherwell Local Plan Partial Review 2020, the approved Development Brief and Government guidance within the National Planning Policy Framework.

Note to Appellant: This reason for refusal is capable of being addressed.

3. The application proposal has failed to secure an appropriate safe and convenient access from William Fletcher Primary School to the new school playing fields as required by Policy PR9 which is contiguous with the existing school boundary. The proposal is therefore contrary to Policy PR9 of the Cherwell Local Plan Partial Review 2020, the adopted Development Brief and Government guidance within the National Planning Policy Framework. Note to Appellant: This reason for refusal is capable of being addressed.
4. The proposed development, when set against the financial viability of the scheme, would fail to provide an adequate level of affordable housing provision. The proposal is therefore contrary to Policies PR2 and PR9 of the Cherwell Local Plan Partial Review 2020 and Government guidance contained within the National Planning Policy Framework.

Note to Appellant: This reason for refusal is capable of being addressed.

5. In the absence of a satisfactory Planning Obligation, the Local Planning Authority is not satisfied that the development would provide for appropriate on-site infrastructure or infrastructure contributions towards offsite mitigation required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents contrary to Policy INF1 of the adopted Cherwell Local Plan 2011-2031, Policies PR2, PR9 and PR11 of the Cherwell Local Plan Review 2020 and Government guidance within the National Planning Policy Framework.

Note to Appellant: This reason for refusal is capable of being addressed.

76

Land To The North West Of Old Farm House Adjoining Orchard Piece, Mollington

The Committee considered application 23/00334/F for the erection of a single dwelling, alterations to existing access off Orchard Piece, felling of 6 Category C trees at Land To The North West Of Old Farm House Adjoining Orchard Piece, Mollington for Mr T Hill and Ms K North.

Lousie Steele on behalf of the agent for the applicant, Framptons Town Planning Limited and on behalf of Mr Michael Boik, local resident, addressed the Committee in support of the application.

In reaching its decision the Committee considered the officers' report, presentation, address from the public speaker and the written updates.

Resolved

That, in line with the officer's recommendation, application 23/00334/F be approved 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 heads of terms as set out in the annex to the Minutes, as set out in the Minute book (and any amendments deemed necessary).

Conditions

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason – To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application forms and the following plans and documents:

- Location/Block Plan, drawing number 5624.01 Rev B
- Proposed Floor Plans/Roof Plan, drawing number 5624.02 Rev C
- Proposed South and West Elevations, drawing number 5624.03 Rev D
- Proposed North and East Elevations, drawing number 5624.04 Rev C
- Tree Constraints Plan, drawing number 11548 Tcp 01
- Mollington Topographical Survey, drawing number 1215 1319 1
- Renovation of Existing Outbuilding, drawing number 5624.05
- Arboricultural Impact Assessment
- Ecological Report Biodiversity Net Gain Feasibility Study
- Biodiversity Net Gain Feasibility Study – Appendix 1
- Biodiversity Net Gain Feasibility Study – Appendix 2
- Biodiversity Net Gain Feasibility Study – Appendix 3 NSP Certificate
- Biodiversity Impact Map v1

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.

3. No development shall commence above slab level unless and until a stone sample panel (minimum 1m² in size) has been constructed on site and has been inspected and approved in writing by the Local Planning Authority. The new stonework to be used in the construction of the external walls of the new dwelling hereby approved shall be laid, dressed, coursed and pointed in strict accordance with the approved stone sample panel, and shall be retained as such thereafter.

Reason – In the interests of the character and appearance of the area and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031

Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. No development shall commence above slab level unless and until samples of the slate to be used externally in the construction of the roof of the new buildings hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the sample approved and shall be retained as such thereafter.

Reason – To ensure the satisfactory appearance of the completed development and to preserve the character and appearance of the area and designated heritage asset, to comply with Policy ESD15 of the Cherwell Local Plan 20112031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

5. No development shall commence above slab level unless and until a schedule of any external materials not included within Condition 3 or 4 have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the sample approved and shall be retained as such thereafter.

Reason – To ensure the satisfactory appearance of the completed development and to preserve the character and appearance of the area and designated heritage asset, to comply with Policy ESD15 of the Cherwell Local Plan 20112031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

6. Prior to their installation in the development, full details of the doors, windows and rooflights hereby approved, at a scale of 1:20 including a cross section, cill, lintel and recess detail and colour/finish, shall be submitted to an approved in writing by the Local Planning Authority. The doors and windows shall not be installed within the building other than in accordance with the approved details and shall be retained as such thereafter. Reason – To ensure the satisfactory appearance of the completed development and to preserve the character and appearance of the area, to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

7. Prior to the first occupation of the development hereby approved, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-

- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas.
- (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
- (c) details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps.
- (d) details of boundary treatments. The development shall be carried out in strict accordance with the approved landscaping scheme and the hard landscape elements shall be carried out prior to the first occupation/use of the development and shall be retained as such thereafter.

Reason – In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

8. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

Reason – In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

9. No retained tree shall be cut down, uprooted, damaged or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. All tree works shall be carried out in accordance with BS3998: Recommendations for Tree Works.

If any retained tree is cut down, uprooted, destroyed or dies, another tree shall be planted in the same place in the next planting season

following the removal of that tree, full details of which shall be firstly submitted to and approved in writing by the Local Planning Authority.

In this condition a “retained tree” is an existing tree which shall be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) shall have effect until the expiration of five years from the date of the decision.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

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

Reason - To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing built environment and to comply with Policy C28 of the adopted Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

11. Prior to the commencement of the development hereby approved, full details of the means of access between the land and the highway, including, position, layout, construction, drainage and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the means of access shall be constructed and retained in accordance with the approved details.

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

12. Prior to the commencement of the development hereby approved, a plan showing car parking provision for 2 spaces to be accommodated within the site, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the parking spaces shall be laid out in accordance with the approved details and shall be constructed from porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the site and the car parking spaces shall be retained in accordance with this condition for the parking of vehicles at all times thereafter.

Reason - In the interests of highway safety, to ensure the provision of off-street car parking and to comply with Government guidance contained within the National Planning Policy Framework.

13. No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include as a minimum:
 - a) Risk assessment of potentially damaging construction activities;
 - b) Identification of 'Biodiversity Protection Zones';
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
 - d) The location and timing of sensitive works to avoid harm to biodiversity features;
 - e) The times during construction when specialist ecologists need to be present on site to oversee works;
 - f) Responsible persons and lines of communication;
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
 - h) Use of protective fences, exclusion barriers and warning signs

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason - To conserve and enhance biodiversity and prevent the spread of nonnative species in accordance with Government guidance contained within the National Planning Policy Framework.

14. Prior to the commencement above slab level of the development hereby approved, full details of a scheme for the location of bat, bird, owl and invertebrate boxes on the dwelling shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the occupation of any building, the bat, bird, owl and invertebrate boxes shall be installed on the site in accordance with the approved details.

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 the National Planning Policy Framework.

15. No development hereby permitted shall take place except in accordance with the terms and conditions of the Council's Organisational Licence (WML-OR112, or a 'Further Licence') and with the proposals detailed on plan "Land formerly known as 'Beggar's Boy Cottage': Impact Plan for great crested newt District Licensing (Version 1)", dated 13th September 2023.

Reason - In order to ensure that adverse impacts on great crested newts are adequately mitigated and to ensure that site works are delivered in full compliance with the organisational licence (WML-OR112, or a 'Further Licence'), section 15 of the National Planning Policy Framework, Circular 06/2005 and the Natural Environment and Rural Communities Act 200

16. No development hereby permitted shall take place except in accordance with Part 1 of the Great Crested Newt Mitigation Principles, as set out in the District Licence WML-OR112 (or a 'Further Licence'), and in addition in compliance with the following:

- Works which will affect likely newt hibernacula may only be undertaken during the active period for amphibians.

Reason - In order to ensure that adverse impacts on great crested newts are adequately mitigated and to ensure that site works are delivered in full compliance with the Organisational Licence (WML-OR112, or a 'Further Licence'), section 15 of the National Planning Policy Framework, Circular 06/2005 and the Natural Environment and Rural Communities Act 200

17. Notwithstanding the provisions of Classes A to E (inc.) of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending that order with or without modification) the approved dwelling shall not be extended, nor shall any structures be erected within the curtilage of the said dwelling, without the grant of further specific planning permission from the Local Planning Authority.

Reason – In the interests of the character and appearance of the area and in the interests of sustainable development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

77

Scrapyard, Bunkers Hill, Shipton on Cherwell

The Committee considered application 23/01303/F for the erection of a single dwelling, detached garage and construction of new vehicular access at Scrapyard, Bunkers Hill, Shipton on Cherwell for Evans Exports Ltd.

Henry Venners, on behalf of the agent for the applicant, JPPC, addressed the Committee in support of the application.

In reaching its decision the Committee considered the officers' report, presentation and address from the public speaker.

Resolved

That, in line with the officer's recommendation, application 23/01303/F be refused for the following reason.

1. The proposal constitutes residential development in the open countryside, beyond the built-up limits of a settlement, for which it has not been demonstrated that there is an essential need. The dwelling would therefore be an unjustified and unsustainable form of development. The proposed development is therefore contrary to Policies ESD1, BSC1 and Villages 1 of the Cherwell Local Plan 2011-2031 Part 1, Policy H18 of Cherwell Local Plan 1996, and Government guidance within the National Planning Policy Framework.

78

Land to Rear of Gracewell Care Home, Gardner Way, Adderbury

The Committee considered application 21/01966/F for the erection of 18 dwellings and an access road at land to rear of Gracewell Care Home, Gardner Way, Adderbury for Malvern Homes Limited.

Councillor Rob Pattenden addressed the Committee as Local Ward Member.

Dianne Bratt, Chairman of Adderbury Parish Council, addressed the committee in objection to the application.

David Rahul, the applicant, addressed the committee in support to the application.

In reaching its decision the Committee considered the officers' report and presentation, the address of the public speaker and written updates.

Resolved

- (1) That, in line with the officer's recommendation, application 22/00747/OUT, be approved and authority be delegated to the Assistant Director for Planning and Development to grant permission, subject to
 - a) The conditions set out below (and any amendments to those conditions as deemed necessary) and
 - b) 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 necessary mitigation as set out in the annex to the Minutes, as set out in the Minute book (and any amendments deemed necessary)

Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall not be carried out otherwise than in complete accordance with the approved plans reference SLP1, 03, 05, received 04/06/2021 revised plans reference 01 Rev A, 02 Rev A, 03 Rev A, 04, 06 rev B, 07 Rev A, 08 Rev A, 09, 10, 11 Rev A, 12 Rev A, 14, 15 received 09/09/2022 unless a non-material or minor material amendment is approved by the Local Planning Authority under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

Reason: To clarify the permission and for the avoidance of doubt.

3. No development shall take place until the applicant (or their agents or successors in title) has submitted to and had approved in writing by the local planning authority a programme of archaeological work consisting of a written scheme of investigation and a timetable for that work. The development shall thereafter proceed in accordance with the approved written scheme of investigation and timetable.

Reason: To secure the provision of archaeological investigation and the subsequent recording of the remains, to comply with Government advice in the National Planning Policy Framework (NPPF) (Section 16). This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

4. Following the approval of the Written Scheme of Investigation referred to in condition 3, and prior to the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority within two years of the completion of the archaeological fieldwork.

Reason: To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with the NPPF.

5. No development shall commence unless and until a detailed surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be subsequently implemented in accordance with the approved details prior to the first occupation of the development. The scheme shall include:

- A compliance report to demonstrate how the scheme complies with the "Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire";
- Full drainage calculations for all events up to and including the 1 in 100 year plus 40% climate change and 10% urban creep (Note: the Cv values should be set to 0.95 and MADD should be 0.0);
- A Flood Exceedance Conveyance Plan;
- Comprehensive infiltration testing across the site to BRE DG 365;
- Detailed design drainage layout drawings of the SuDS proposals including crosssection details;
- Detailed maintenance management plan in accordance with Section 32 of CIRIA C753 including maintenance schedules for each drainage element;
- Details of how water quality will be managed during construction and post development in perpetuity; and
- Consent for any connections into third party drainage systems

Reason: To ensure that there is no flooding due to the site drainage and that the water environment is protected and in accordance with Policies ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

6. Prior to the first occupation of the development a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:
- As built plans in both .pdf and .shp file format;
 - Photographs to document each key stage of the drainage system when installed on site;
 - Photographs to document the completed installation of the drainage structures on site;
 - The name and contact details of any appointed management company information.

Reason: In accordance with section 21 of the Flood and Water Management Act 2010 and Government guidance contained within the National Planning Policy Framework.

7. A schedule of materials and finishes to be used in the external walls and roof(s) of the dwelling(s) shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The development shall thereafter be carried out in accordance with the approved details and shall be retained as such thereafter.

Reason: To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the

Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

8. No development shall commence unless and until a report has been submitted to and approved in writing by the local planning authority that demonstrates all habitable rooms within the dwellings will achieve the noise levels specified in BS8233:2014 (Guidance on sound insulation and noise reduction for buildings) for indoor and external noise levels (if required, then the methods for rating noise in BS4142:2014 should be used, such as for noise from industrial sources). Thereafter, and prior to the first occupation of the dwellings affected by this condition, the dwellings shall be insulated and maintained in accordance with approved details.

Reason: To avoid noise giving rise to significant adverse impacts on health and quality of life and to comply with advice in the NPPF (section 15) and Saved Policy ENV1 of the Cherwell Local Plan 1996.

9. No development shall take place, including any works of demolition until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The statement shall provide for at a minimum:
 - a. The parking of vehicles of site operatives and visitors;
 - b. The routeing of HGVs to and from the site;
 - c. Loading and unloading of plant and materials;
 - d. Storage of plant and materials used in constructing the development;
 - e. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - f. Wheel washing facilities including type of operation (automated, water recycling etc) and road sweeping;
 - g. Measures to control the emission of dust and dirt during construction;
 - h. A scheme for recycling/ disposing of waste resulting from demolition and construction works;
 - i. Delivery, demolition and construction working hours; The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason: To ensure the environment is protected during construction in accordance with Saved Policy ENV1 of the Cherwell Local Plan 1996 and 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.

10. No part of the development hereby permitted shall take place until a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model has been carried out by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and has been submitted to and approved in

writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval that it is satisfied that no potential risk from contamination has been identified.

Reason: To ensure that 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. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

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

Reason: To ensure that any ground and water contamination is 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. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

12. If contamination is found by undertaking the work carried out under condition 10, prior to the commencement of the development hereby permitted a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

Reason: To ensure that any ground and water contamination is 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. This information

is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

13. 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.

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

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

15. A plan detailing the proposed parking and turning provision for vehicles to be accommodated within the site (including details of the proposed surfacing and drainage of the provision), shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The approved parking and turning facilities shall be laid out and completed in accordance with the approved details before the first occupation of the dwellings. The car parking and turning spaces shall be retained for the parking turning of vehicles at all times thereafter.

Reason: In the interests of highway safety, to ensure the provision of adequate offstreet car parking and turning and to comply with Government guidance in Section 12 of the National Planning Policy Framework.

16. Details of a turning area to be provided within the site so that motor vehicles may enter, turn around and leave in a forward direction including refuse and emergency service vehicles (including surfacing and drainage details) shall be submitted to and approved in writing by the Local Planning Authority before the development reaches slab level. The turning area shall be constructed and completed in accordance with the approved details before the development is first occupied and shall be retained for the manoeuvring of motor vehicles at all times thereafter.

Reason: In the interests of highway safety and to comply with Government guidance in Section 12 of the National Planning Policy Framework.

17. Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The covered cycle parking facilities so provided shall thereafter be permanently retained and maintained for the parking of cycles in connection with the development.

Reason: In the interests of promoting sustainable transport modes in accordance with Government advice in the National Planning Policy Framework.

18. Prior to the first occupation of the development a Residential Travel Plan and Residential Travel Information Pack shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Travel Plan Statement shall be implemented and operated in accordance with the approved details.

Reason: In the interests of sustainability, to ensure a satisfactory form of development and to comply with Government guidance contained within the National Planning Policy Framework.

19. No temporary obstructions including any materials, plant, temporary structures or excavations of any kind shall be deposited / undertaken on or adjacent to the public right of way that may obstruct or dissuade the public from using the public right of way whilst the development takes place.

Reason: To ensure the public right of way remains available and convenient for public use.

20. No development shall commence unless and until full details of the tree protection measures for all trees and hedges to be retained have been submitted to and approved in writing by the Local Planning Authority. These measures shall be set out in a detailed Arboricultural Method Statement to include the specification of the location and type of protective fencing, the timings for the erection and removal of the protective fencing, the details of any hard surfacing and underground services proposed within the root protection areas, all to be in accordance with the British Standard for Trees in Relation to Construction 5837: 2012, and the monitoring of tree protection measures during construction. All tree protective measures shall be carried out as set out in the approved Arboricultural Method Statement.

Reason: To protect the visual amenity of the area in accordance with policies.

21. No development above slab level shall be carried out until a lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The approved lighting scheme shall be implemented in full compliance prior to the first occupation on the site.

Reason: To protect the amenities of nearby residents, visual amenity and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

22. A scheme for landscaping the site shall be provided to and approved in writing by the Local Planning Authority which shall include:-
- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas and written specifications (including cultivation and other operations associated with plant and grass establishment i.e. depth of topsoil, mulch etc),
 - (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
 - (c) details of the hard landscaping including hard surface areas, pavements, pedestrian areas and steps.

The development shall be carried out in strict accordance with the approved landscaping scheme and the hard landscape elements shall be carried out prior to the first occupation/use of the development and shall be retained as such thereafter.

Reason: To ensure that a satisfactory landscape scheme is provided in the interest of well planned development and visual amenity and to accord with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

23. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

Reason – In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1,

saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

24. Prior to first occupation of the development hereby approved a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details.

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.

25. No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include as a minimum:

- (a) Risk assessment of potentially damaging construction activities;
- (b) Identification of 'Biodiversity Protection Zones';
- (c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- (d) The location and timing of sensitive works to avoid harm to biodiversity features;
- (e) The times during construction when specialist ecologists need to be present on site to oversee works;
- (f) Responsible persons and lines of communication;
- (g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- (h) Use of protective fences, exclusion barriers and warning signs

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

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.

26. Full details of the siting, appearance and colour of any electricity or gas supply meter housings to be located on the external elevations of the buildings shall be submitted to and approved by the Local Planning Authority prior to the construction of the building above

slab level. The development shall thereafter be carried out in accordance with the approved details.

Reason: In order to safeguard the visual amenities of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996.

27. Notwithstanding the provisions of Class A of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or in any provision equivalent to that class in any statutory instrument revoking, amending or re-enacting that order), the garage(s) shown on the approved plans shall be retained for the garaging of private motor vehicles and shall not be converted to provide additional living accommodation without the grant of further specific planning permission from the Local Planning Authority.

Reason: In the interests of highway safety, to ensure the provision of adequate offstreet car parking to comply with Government guidance in Section 12 of the National Planning Policy Framework.

28. Notwithstanding the provisions of Classes A-D (inc) of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending that order) no enlargement alteration or improvement of any dwellinghouse shall be undertaken at any time without the grant of further specific planning permission from the Local Planning Authority.

Reason: Taking into account the density of the site it is considered to be in the public interest to ensure the merits of future proposals can be assessed by the Local Planning Authority so that the amenities of the adjoining occupier(s) are not adversely affected in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Section 12 of the National Planning Policy Framework.

29. The first-floor window in the east elevation of plot 9 shall be obscure glazed, using manufactured obscure glass, (not an applied adhesive film) before the dwelling is first occupied and shall be permanently retained as such thereafter. The window shall also be non-opening, unless those parts which can be opened are more than 1.7m above the floor of the room in which it is installed and shall be permanently retained as such thereafter.

Reason: To ensure that the amenities of the adjoining occupier(s) are not adversely affected by loss of privacy in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996 and

Government guidance contained within the National Planning Policy Framework.

30. Full details of the enclosures along all boundaries and within the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of those works. Such approved means of enclosure, in respect of those dwellings which are intended to be screened, shall be erected prior to the first occupation of those dwellings and shall be retained as such thereafter.

Reason: To ensure the satisfactory appearance of the completed development, to safeguard the privacy of the occupants of the existing and proposed dwellings and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

31. Prior to the first occupation of the development hereby permitted, written confirmation that the development achieves a water efficiency limit of 110 litres/person/day under Part G of the Building Regulations shall be submitted to and approved in writing by the Local Planning Authority.

Reason: Cherwell District is in an area of water stress, to mitigate the impacts of climate change and in the interests of sustainability, to comply with Policies ESD1 and ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework.

79 **Whitelands Farm Sports Ground, Whitelands Way, Bicester, OX26 1AJ**

The Committee considered application 23/00018/F for perimeter lighting around the running track for the Whitelands sports farm site at Whitelands Farm Sports Ground, Whitelands Way, Bicester, OX26 1AJ for Bicester Town Council.

In reaching its decision the Committee considered the officers report and presentation and the written updates.

Resolved

- (1) That, in line with the officer's recommendation, application 23/00018/F be approved and authority be delegated to the Assistant Director for Planning and Development to grant permission, subject to no new material planning considerations being raised before the expiry of the consultation period and to the conditions set out below (and any amendments to those conditions as deemed necessary)

Conditions

Time Limit

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Compliance with Plans

2. 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:
Site Location and Block Plan
Proposed finished levels and drainage layouts (ref: DE1101824001)
Zeta Rapid Mount Solar Nano lighting details

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.

3. Prior to the erection, installation, fixing, placement and/or operation of any external lighting on the site (including on the building itself), details of such external lighting shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include the equipment and supporting structures, positions, sizes, heights, type, luminance/light intensity, direction and cowling of all external lights and other parts of the application site and the hours at which such lighting is to be operated. This scheme shall ensure that light trespass into the windows of any light sensitive premises shall be appropriately mitigated in accordance with the Institution of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Light GN01/20).

Reason – To ensure the proposed lighting columns do not impact on the amenity of residents in nearby properties in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031, saved policy ENV1 of the Cherwell Local Plan 1996 and the aims and objectives of the National Planning Policy Framework.

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Appeals Progress Report

The Assistant Director Planning and Development submitted a report which informed Members about planning appeal progress including decisions received and the scheduling of public inquiries and hearings for new and current appeals.

Resolved

- (1) That the position statement be accepted.

The meeting ended at 6.36 pm

Chairman:

Date:

Agenda Annex

CHERWELL DISTRICT COUNCIL

Planning Committee – 7 December 2023

PLANNING APPLICATIONS INDEX

The Officer's recommendations are given at the end of the report on each application.

Members should get in touch with staff as soon as possible after receiving this agenda if they wish to have any further information on the applications.

Any responses to consultations, or information which has been received after the application report was finalised, will be reported at the meeting.

The individual reports normally only refer to the main topic policies in the Cherwell Local Plan that are appropriate to the proposal. However, there may be other policies in the Development Plan, or the Local Plan, or other national and local planning guidance that are material to the proposal but are not specifically referred to.

The reports also only include a summary of the planning issues received in consultee representations and statements submitted on an application. Full copies of the comments received are available for inspection by Members in advance of the meeting.

Legal, Health and Safety, Crime and Disorder, Sustainability and Equalities Implications

Any relevant matters pertaining to the specific applications are as set out in the individual reports.

Human Rights Implications

The recommendations in the reports may, if accepted, affect the human rights of individuals under Article 8 and Article 1 of the First Protocol of the European Convention on Human Rights. However, in all the circumstances relating to the development proposals, it is concluded that the recommendations are in accordance with the law and are necessary in a democratic society for the protection of the rights and freedom of others and are also necessary to control the use of property in the interest of the public.

Background Papers

For each of the applications listed are: the application form; the accompanying certificates and plans and any other information provided by the applicant/agent; representations made by bodies or persons consulted on the application; any submissions supporting or objecting to the application; any decision notices or letters containing previous planning decisions relating to the application site

Item No.	Site	Application Number	Ward	Recommendation	Contact Officer
8	Land North Of 66 And Adjacent Water Eaton Lane Gosford	22/03883/F	Kidlington East	Approval	Andrew Thompson
9	Land West of Oxford Close and North of Corner Farm, Station Road, Kirtlington	23/02338/OUT	Fringford And Heyfords	Approval	Jeanette Davey
10	OS Parcel 0622 South of Jersey Cottages and East of Heyford Road, Kirtlington	23/02471/F	Fringford And Heyfords	Refusal	Jeanette Davey
11	1 Elizabeth Rise Banbury OX16 9LZ	23/02821/F	Banbury Calthorpe And Easington	Approval	Nathanael Stock

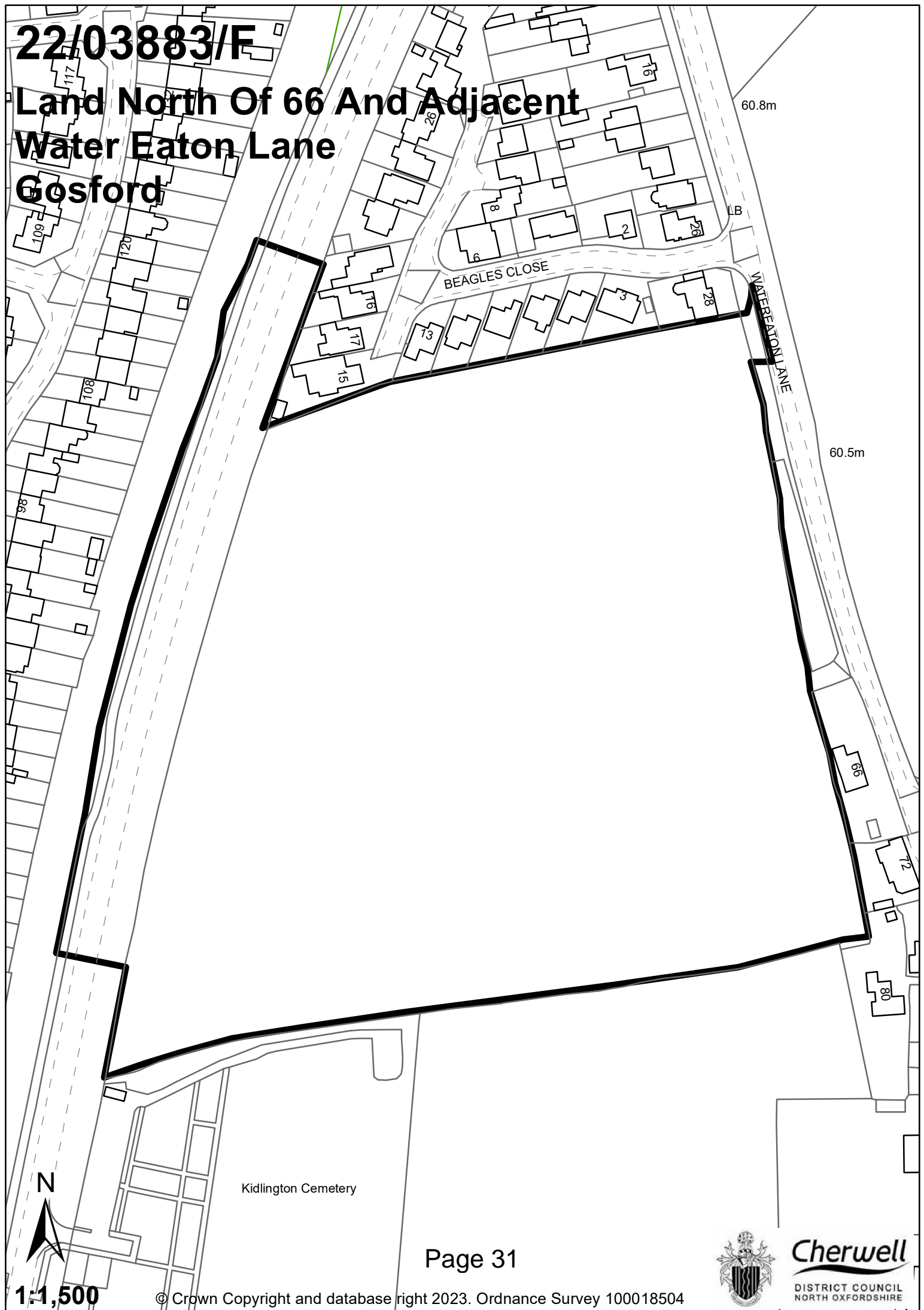
*Subject to conditions

Land North Of 66 And Adjacent
Water Eaton Lane
Gosford



22/03883/F

Land North Of 66 And Adjacent
Water Eaton Lane
Gosford

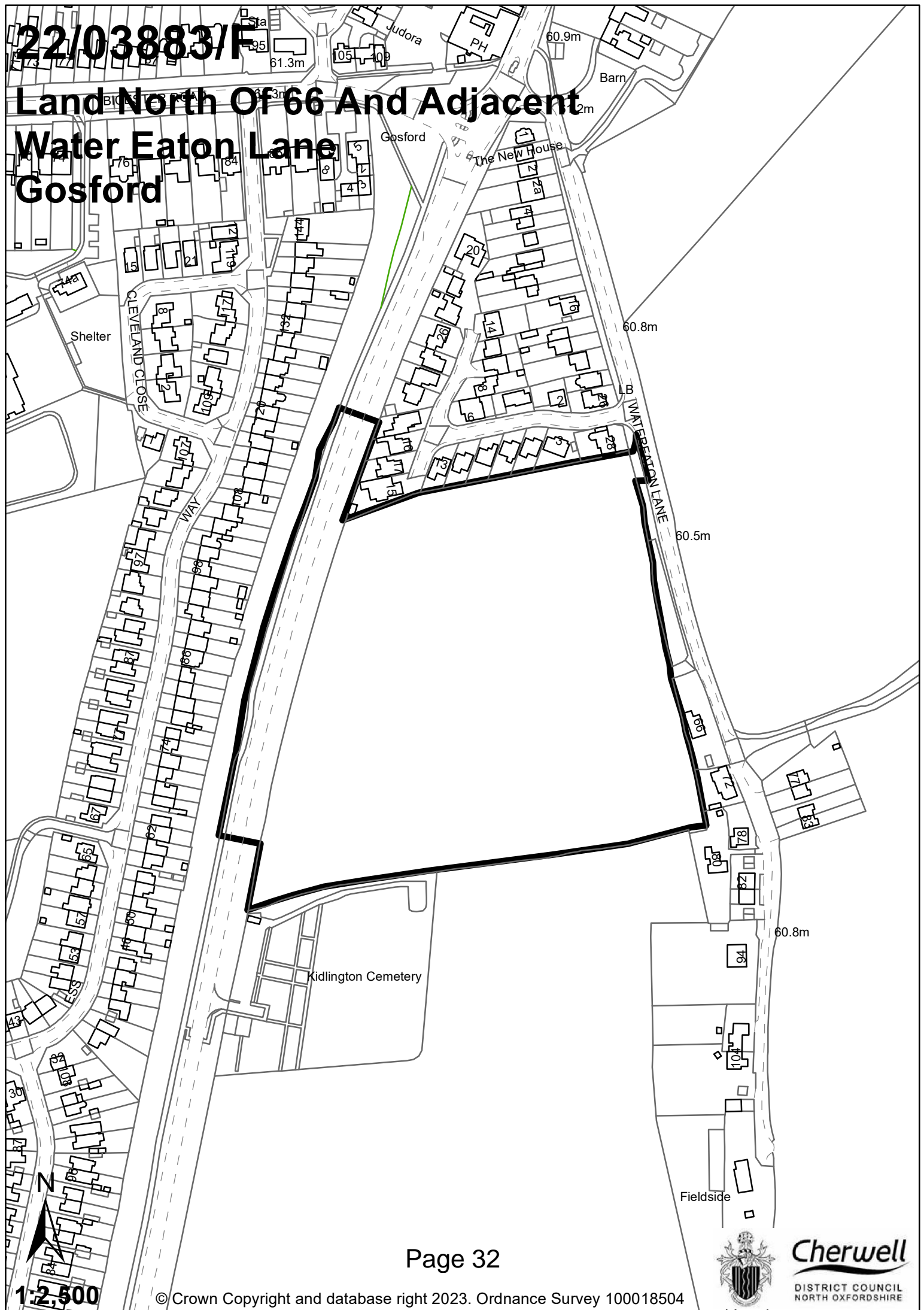


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22/03883/F

Land North Of 66 And Adjacent Water Eaton Lane Gosford



Case Officer: Andrew Thompson

Applicant: Hill Residential Ltd

Proposal: Development of 96 Dwellings (50% affordable housing), extension to Bicester Road Cemetery with associated access (from Bicester Road), open space, landscaping and infrastructure

Ward: Kidlington East

Councillors: Councillor Billington, Councillor Mawson and Councillor Middleton

Reason for Referral: Major development

Expiry Date: 20 April 2023

Committee Date: 07 December 2023

SUMMARY RECOMMENDATION: DELEGATE APPROVAL TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT SUBJECT TO:

- **ADDRESSING THE CONCERNS OF THE ENVIRONMENT AGENCY;**
- **THE EXPIRY OF THE CONSULTATION PERIOD;**
- **PLANNING CONDITIONS, AND;**
- **THE COMPLETION OF A PLANNING OBLIGATION**

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is vacant arable land which is approximately 4.3ha in size.
- 1.2. The boundaries of the site are generally defined by hedgerows, shrubs, and trees. Existing overhead cables span the site from south-west to north-east. The site is relatively flat.
- 1.3. Bicester Road Cemetery abuts the southern boundary of the site.
- 1.4. An existing residential development (Beagles Close) abuts the northern boundary of the site. Eight existing properties which back onto the site boundary. Of these dwellings 7no are two storey high and 1no is a bungalow. This boundary consists of existing close boarded fences with some sporadic hedge planting to the field margin.
- 1.5. Land directly to the south of the site currently comprises agricultural land. However, it forms part of the wider allocation under Policy PR7a. This land is subject to application 22/00747/OUT, a resolution for approval for which was secured at Planning Committee in October 2023.
- 1.6. To the east of the site, beyond the residential properties on Water Eaton Lane, is an expanse of fields.
- 1.7. To the west the site is bound by Bicester Road, beyond which is residential development.

2. CONSTRAINTS

- 2.1 The application site is the northern half of the allocation of PR7a which comprises 32 hectares of land to the south eastern edge of the settlement of Kidlington and Gosford, north of Oxford. The site is bounded by Oxford Road (A4165) to the south west, the A34 to the east, Water Eaton Lane to the north east and Bicester Road to the west. It is generally flat and in agricultural use. The central part of the site is adjacent to a cemetery and former allotments, while residential properties are located to the north and north east. The site is located in close proximity to Oxford Parkway Station, the Park & Ride, Sainsbury's supermarket and Stratfield Brake recreation ground. The site is accessed from Bicester Road.
- 2.2 Policy PR7a of the Local Plan Partial Review sets out the policy requirements for the site which include:
- 430 net dwellings on 21 hectares of land
 - 50% affordable housing
 - An extension to Kidlington Cemetery on 0.7 hectares of land within the developable area.
 - 11 hectares of land to provide formal sports facilities for the development and for the wider community and green infrastructure within the Green Belt.
 - Provision for required emergency services infrastructure.
 - Play areas and allotments within the developable area.
 - Contributions towards community facilities.
- 2.3 None of the application site is within the Green Belt following its allocation.
- 2.4 A majority of the site is in Flood Zone 1 with the northeastern corner of the application site located in Flood Zones 2 and 3.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application proposes a development of 96 Dwellings with full planning permission sought.
- 3.2. The proposals show an access located off Bicester Road which is bookmarked by two three storey apartment blocks. The principal road curves down to the southern end of the site to adjoin with the southern half of the allocation. The majority of the proposed houses are two storey interspersed with 2.5 storey dwellings in key locations.
- 3.3. The proposals also show cycle and pedestrian access points off Bicester Road in the northeastern and northwestern corners of the development which would create linkages to Bicester Road and Water Eaton Lane.
- 3.4. On the northern boundary with Beagles Close and adjacent to Bicester Road is an area of wildflower planting and informal space. Further along the northern boundary is an area identified for sustainable drainage and further informal play provision.
- 3.5. To the north and eastern portion of the site is an area identified for outdoor recreation. Further sustainable drainage is proposed along the eastern boundary of the proposal.
- 3.6. To the southern portion of the site is a cycle and pedestrian route alongside the proposed cemetery extension which is to the north of the existing cemetery and fronts Bicester Road.

- 3.7. The proposed mix of dwellings is:
13, 1-bedroom properties
30, 2-bedroom properties
24, 3-bedroom properties
25, 4-bedroom properties
4, 5-bedroom properties
- 3.8. The proposals include 163 car parking spaces with communal provision for bikes and bins for apartments. The parking provision includes 15 visitor spaces.

4. RELEVANT PLANNING HISTORY

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

21/02864/SD - Screening Direction to determine whether there is a requirement for an Environmental Impact Assessment (EIA) to accompany a planning application for development at the above location. The Proposed Development comprises residential development for up to 500 residential dwellings, open space, sports facilities, an extension to Kidlington cemetery and allotments, associated vehicular access, infrastructure, engineering works and landscaping – EIA Not Required

22/00747/OUT - Outline planning application for the development of up to 370 homes, public open space (including play areas and woodland planting), sports pitches and pavilion, drainage and engineering works, with all matters reserved (appearance, landscaping, layout and scale) except for vehicular and emergency accesses to Bicester Road.

5. PRE-APPLICATION DISCUSSIONS

- 5.1. The following pre-application discussions have taken place with regard to this proposal:
- 5.2. The Council highlighted that this site is covered by an approved Development Brief and as such any development on the site will be considered against this brief and that it will be essential to ensure that the point of crossing from one parcel to the other matches to ensure a joined-up development.
- 5.3. Early comments from the Oxfordshire County Council (OCC) Highways are that due to the indicative nature of the plan, it is not possible to determine the dimensions of associated features of the site layout - such as carriageway/footpath widths and depth of turning areas. A blocked paved surface or similar will also be required for shared surfaces while pedestrian/cyclist facilities will need to be designed in such a way that gives users priority across side roads and private driveways. OCC will expect LTN1/20 compliant cycle infrastructure to be provided.
- 5.4. In considering the spur roads leading off the main spine road, it is noted that many of these lead into parking courtyards and / or short cul-de-sacs. Many of these cul-de-sacs maintain parking spaces directly off the road and located to the front of the dwellings. The development brief highlights that parking is to be provided on street and on plot utilising a range of parking solutions in line with the guidance provided in the Cherwell Residential Design Guide. Although the use of parking courtyards is an acceptable form of parking a concern is that in the event these become too large, they are difficult to manage and become less used by residents if they cannot see their cars. The security and scale of the parking courtyards is therefore a material consideration in that if the parking areas are not used the result will be an increase in on-street parking which will lead to a highway congestion.

- 5.5. The use of the three storey blocks is in accordance with the development brief which requires buildings up to three-storey in this location and of a near continuous frontage which will act as a noise barrier to the rest of the parcel as well as a key gateway feature to the land parcel. Concerns were expressed in relation to the design and appearance of the apartments. Turning to the remaining dwellings the approach was considered appropriate and follows the requirement of the Development Brief
- 5.6. Section 6 of the Development Brief refers to Sustainable Construction and Energy Efficiency and the applicant was encouraged to consider how those requirements might influence design. For example, are roof orientations optimised for PV if that were to form part of your proposals to include renewable or low carbon energy. It was also considered that it will be required to show that all habitable rooms within the dwellings will achieve the noise levels specified in BS8233:2014 (Guidance on sound insulation and noise reduction for buildings) for indoor ambient noise levels.
- 5.7. In respect of affordable housing further discussion as to the scheme and necessary amendments to the design, layout, mix and distribution of housing were recommended.
- 5.8. Located on the western side of the development and to the immediate north of the current cemetery is in accordance with the Development Brief as discussed during meetings. How this area will be allocated to the appropriate body to administer the use of the cemetery and clarity on what condition the land will be provided in was required in particular with regards to any necessary remediation works.
- 5.9. Comments to the Landscape and provision of play space were also provided and the need for significant on-site renewable energy provision on residential development of this scale. As part of the wider PR7a allocation, this should be considered. It is noted that SUDs are proposed.
- 5.10. The level of s106 contributions was also discussed with a number of matters also being discussed and the County carrying out further work on the level of appropriate highway contributions.

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 letters to residential addresses within proximity. There have been several consultation exercises (both general and in relation to specific technical information) through the receipt of amended plans and updated information. The final date for comments was **15 December 2023**, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. A total of 10 comments raised by third parties (including the local Swift Action Group and Cycle Advocacy Network) and are summarised as follows:
 - Object to flats, in particular 3-storey, impact on privacy of neighbours.
 - Use of red-brick out of keeping
 - Impact of substations on health of residents
 - Pedestrian/cycle access, would significantly affect the privacy and security of residents
 - Flooding and drainage – including to the proposed cemetery
 - Need for dog bins, in particular for the open space
 - Should increase carbon efficiency
 - Concern related to traffic and the need for road improvements, in particular pedestrian access to Sainsburys

- There is an opportunity here to incorporate nest places for Swifts, House Sparrows and Starlings (all Red-listed birds of conservation concern) into the buildings. The Universal Swift brick would be an ideal option
- Need for cycle infrastructure
- Printed Plans should have been made available in Kidlington

6.3. Councillor Ian Middleton as part of County Council comments included the following comments:

This development is in an area with currently the worst air quality in Kidlington. The two hotspots for emissions are the top of the Bicester Road where there is currently a pollution monitor and the Bramley Close area where some of the worst air quality readings have been taken. This is largely due to the number of HGVs that use both the Bicester/Gosford Link Road (also called the Bicester Road) and the main Bicester Road itself (even though that road is technically closed to HGVs). For these reasons and the general policy of OCC to improve air quality and reduce car movements, this development and any others in the area should be encouraged to be as car free as possible. I know the developers are sensitive to this and have to some extent addressed the issue in their plans, but it's worth reiterating that the provision of on site parking, garages and driveways will only serve to increase car use. Ways of attenuating this would be the encouragement of car clubs on the site where shared electric vehicles could be made available as well as encouraging other forms of sustainable travel.

6.4. 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. KIDLINGTON PARISH COUNCIL: Objection on the following grounds:

- The amended application does not deal with outstanding issues associated with the cemetery extension, notably the Environment Agency continues to maintain an objection associated with the drainage issues. This application should not be resolved until this, and other issues, associated with the cemetery extension are resolved to the satisfaction of Kidlington Parish Council.
- The cycleways and pedestrian linkages do not connect effectively into the wider area and appear to discourage use through the proposed development.
- This area has been monitored as part of a AQMA (air quality management area) due to the above objective level of nitrogen dioxide, although reduced recently, this should continue to be monitored given the increase in general activity in the area with proposed developments.
- The location of bus stops indicated to serve the wider community is unsatisfactory.
- The proposed development lacks linkage to existing communities and goes against any principles of integrated development.

The Parish Council have further written on 21 November 2023 to highlight that Kidlington Parish Council still object to the application and we would draw your attention to the points raised in our response dated 14/03/23 and in particular to the suitability, layout, provision of roads, footpaths and drainage for the Cemetery Extension.

We note that the EA have objected to the drainage from the cemetery (following the T1 and T2 assessment) as it seems to discharge directly into the development drainage. The existing cemetery discharges directly into an existing watercourse which flows to Water Eaton Lane and then to the river.

It appears that the developer is proposing mitigation measure to overcome EA objection as follows:

Use of caskets in burial: This will be expensive and not acceptable for KPC. Under these circumstances KPC may not be willing to accept the site as a cemetery.
No burials within 10 metres of any field drain, existing wet or dry ditch: this will seriously limit the space for burials however we are uncertain what is exactly meant by field drains e.g. will this include new land drain installed to drain the site?
Drains should be installed 700mm below the ground to aid fast drainage from the site: If this condition is adopted then a full detailed plan will be required to ascertain how the burials will be located in relation to the new drainage system.

KPC will expect any new drainage to be installed and fully operational before KPC can consider taking on the site for burials. KPC will also need to see that the EA have accepted the site for a cemetery with the necessary infrastructure proposed

We note there is an arterial drainage system and a road and but no footpaths or reference to grassing over ready for use which will be a KPC requirement before it is taken over.

- 7.3. GOSFORD AND WATER EATON PARISH COUNCIL: cycle connectivity and access to the site is part of this consideration. Would not want access too close to the roundabout. Query regarding proximity of bicycle sheds and refuse areas to dwellings. Could this be looked at.

CONSULTEES

- 7.4. HOUSING STRATEGY (COMBINED COMMENTS OF CDC AND OXFORD CITY) – Alterations to the tenure distribution plan show a better distribution of tenures in the southern part of the site. There is still an area to the north which contains only market housing, and this is not ideal. However, we are prepared to accept this as the affordable housing is now better integrated with some market housing and intermediate tenures. We expect the scheme to be tenure blind” and that the external appearance of the dwellings will not make the affordable stand out in terms of design, materials and landscaping.

We welcome the amendments to the overall mix to include a slightly larger number of 3-bed rented dwellings.

We also welcome the inclusion of lifts in the blocks of flats. We recognise that this can have a potential impact on rental charges, however we maintain the view that the benefits to tenants or visitors with limited mobility is of paramount importance and outweighs other considerations.

There are still only two houses proposed as intermediate tenures, and this limits customers’ choice to quite a large extent. There is also a high level of need for 1-bed

rented accommodation. The mix is not ideal, however It would be helpful in covering this point if the applicant could confirm demand for 1 and 2-bed flats for low-cost purchase in the area.

We welcome confirmation via the accommodation schedule that all of the affordable dwellings meet M4(2) or M4(3) requirements. There are 3no M4(3) flats which, as a result of recent discussions with the applicant, are now proposed with showers/wetrooms. It is not ideal that two of these are on the first and second floor, especially as they are 2-bed dwellings and will therefore potentially be occupied by households with children.

The applicant has explored the option of making two other ground floor flats M4(3) compliant, however has advised that there is not sufficient space. Whilst we support the revised application and appreciate the late stage it is at, we would request that the applicant continues to give this matter some consideration with a view to finding a solution to the M4(3) provision that will work better for potential applicants.

Conclusion

Whilst there are one or two points, as outlined above, that are not what we would ideally look for in the affordable provision, taking everything into consideration both Councils support this revised proposal.

- 7.5. OCC HIGHWAYS: No objection subject to S106 obligations, an obligation to enter into a s278 agreement for access related works and appropriate planning conditions.
- 7.6. NATIONAL HIGHWAYS: No objection
- 7.7. ACTIVE TRAVEL ENGLAND: No comment – use Standing Advice to promote active travel
- 7.8. CDC LAND DRAINAGE - It is agreed that infiltration cannot be relied on to provide any means of surface water drainage and therefore a positive attenuated discharge from the site will be required. The following critical levels are noted: Invert at receiving point in outfall ditch on east side of Water Eaton Lane: 59.80m Invert Pond 1 outfall: 60.125m Invert Pond 2 outfall: 60.35m Approximate 1% AEP flood level (without climate change): 60.7m Lowest Finished Floor Level on development: 61.50m. This will mean that in times of severe flood the outfalls from both ponds will be submerged. Generally supportive of the proposed surface water infrastructure details. The applicant has generally complied with the requirements of the Oxfordshire LLFA Local Standards in that linear basins and swales are proposed upstream of the terminal attenuation ponds. It is noted that findings from a further ground investigation are awaited to determine whether there is a ground water flood risk that will require the ponds to be lined with impermeable membranes.
- 7.9. THAMES WATER: No objection however details will be required to be agreed in terms of foul water and water infrastructure (e.g. pumping stations) to ensure that adequate water is supplied to the site.
- 7.10. LEAD LOCAL FLOOD AUTHORITY - No objection subject to condition relating to the design and management of the sustainable drainage
- 7.11. LANDSCAPE:

Cemetery – There should be at least a 5m buffer of woodland and greenspace between the cemetery and the plots and the road to allow the maximum amount of privacy for cemetery users. Resident's will use their garden space for noisy social

functions, etc. which will be very disturbing and upsetting for users of the cemetery, especially when burial services are taking place

LAP /LEAP – There is currently insufficient space allocated for the combined LAP/LEAP. It appears to be an incidental area to the side of the balancing pond, sandwiched between the balancing pond and the flood area. The facility should ideally be relocated to the larger area of open space.

Welcome the tree-lined streets to improve microclimate, visually mitigate what would otherwise be very bleak streets. The right tree in the right place is a critical determinant for the success of the tree infrastructure.

7.12. ENVIRONMENT AGENCY- In accordance with paragraph(s) 159 and 174 of the National Planning Policy Framework (NPPF), we object to the proposed development due to its unacceptable risk to the environment. The proposal is also contrary to policy ESD 6 and ESD 8 of the Local Plan.

7.13. NHS BUCKINGHAMSHIRE, OXFORDSHIRE AND BERKSHIRE – Seek contributions towards Gosford Hill Medical Centre in particular- This PCN area is already under pressure from nearby planning applications, and this application directly impacts on the ability of the Gosford Hill Medical Centre surgery in particular, to provide primary care services to the increasing population. Primary Care infrastructure funding is therefore requested to support local plans to surgery alterations or capital projects to support patient services. The funding will be invested into other capital projects which directly benefit this PCN location and the practices within it if a specific project in the area is not forthcoming.

7.14. STAGECOACH – Support the application as an important part of meeting the Oxford Unmet Housing Need and the site is in a location which can be accessed through walking, cycling and public transport.

7.15. SPORT ENGLAND – No comment

7.16. OCC ARCHAEOLOGY: No objection subject to a condition

7.17. CDC ENVIRONMENTAL PROTECTION:

Noise: I have read through the temporary CEMP section provided within the noise report and will await the full CEMP provided should the planning permission be granted. I have read and noted the results and recommendations of the noise assessment. In regards to the undesirable findings on the Western boundary to both internal and external noise levels, no development shall take place until a scheme to soundproof the affected dwellings against traffic noise has been submitted to and approved by the Local Planning Authority so as to achieve an internal level in all sleeping areas of 30dB LAeq 1 hour and 45 dB L A max between 2300 hours and 0700 hours with windows shut and other means of ventilation provided. An internal level of 40dB LAeq 1 hour shall be achieved in all other areas of the building. All works that form part of the scheme shall be completed prior to occupation of the dwellings.

Contaminated land: Having reviewed the Phase 1 and 2 Ground Conditions Reports. Only require a condition that any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

Air Quality: Satisfied that the recommendations contained in the submitted information are appropriate.

Light: No comments

- 7.18. CDC RECREATION AND LEISURE: Seek contributions towards Community Facilities, Outdoor Sport, Indoor Sport, and Public Realm, Public Art and Cultural Well-being.
- 7.19. THAMES VALLEY POLICE: No objection subject to conditions and recommendation that bollards being installed at the entrance to the cycleway.
- 7.20. FIRE SERVICE: Fire service access and suitable water provisions will need to be provided in line with B5 of Building Regulations. It is taken that where necessary; works will be subject to a Building Regulations Application to ensure compliance with the functional requirements of The Building Regulations 2010.
- 7.21. OCC LIBRARY SERVICES: Seek a contribution towards enhancement of Kidlington Library
- 7.22. OCC EDUCATION: Seek a contribution of £791,313 towards Secondary School and SEND Education sectors.
- 7.23. BUILDING CONTROL: The development will require a Building Regulations application. No adverse comments at this stage.
- 7.24. ECOLOGY: In short, as a minimum I would request that the metric is sent on, that comment on mitigation for farmland birds is made and that we see the proposals for green roofs and walls as well as integrated bat/bird provision. Also that comment is made on how the LMMP submitted will fit in with a LEMP/Biodiversity management plan so we ensure there isn't a future issue

[OFFICER NOTE – The Biodiversity Matrix has been submitted on 12/5/2023 and further consultation has been carried out however no further comment has been received.]

- 7.25. OCC WASTE MANAGEMENT: Seek a contribution of £9,020 towards enhancement of waste and recycling facilities arising from increased activity from the development.

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 (PART1) PARTIAL REVIEW - OXFORD'S UNMET HOUSING NEED

- PR1: Achieving Sustainable Development for Oxford's Needs
- PR2: Housing Mix, Tenure and Size
- PR3: The Oxford Green Belt
- PR4a: Sustainable Transport
- PR4b: Kidlington Centre

- PR5: Green Infrastructure
- PR7a - Land South East of Kidlington
- PR11 - Infrastructure Delivery
- PR12a - Delivering Sites and Maintaining Housing Supply

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

- PSD1: Presumption in Favour of Sustainable Development
- SLE1: Employment Development
- SLE2: Securing Dynamic Town Centres
- SLE3: Supporting Tourism Growth
- SLE4: Improved Transport and Connections
- BSC1: District Wide Housing Distribution
- BSC2: The Effective and Efficient Use of Land – Brownfield land and Housing Density
- 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
- ESD4: Decentralised Energy Systems
- ESD5: Renewable Energy
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems (SuDS)
- ESD8: Water Resources
- ESD9: Protection of the Oxford Meadows SAC
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD11: Conservation Target Areas
- ESD12: Cotswolds Area of Outstanding Natural Beauty (AONB)
- ESD13: Local Landscape Protection and Enhancement
- ESD14: Oxford Green Belt
- ESD15: The Character of the Built and Historic Environment
- ESD16: The Oxford Canal
- ESD17: Green Infrastructure
- Kidlington 2: Strengthening Kidlington Village Centre
- INF1: Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- GB2 – Outdoor Recreation in the Green Belt
- TR1 - Transportation funding
- TR7 - Development attracting traffic on minor roads
- TR8 - Commercial facilities for the motorist
- TR10 - Heavy Goods vehicles
- TR11 - Oxford Canal
- TR22 - Reservation of land for road schemes in the countryside
- C5 - Protection of ecological value and rural character of specified features of value in the District
- C15 – Prevention of coalescence of settlements
- C18 – Development proposals affecting listed buildings
- C21 – Proposals for re-use of a listed building
- C23 – Retention of features contributing to character or appearance of a conservation area

- C28 – Layout, design and external appearance of new development
- C29 – Appearance of development adjacent to the Oxford Canal
- C30 – Design control
- C32 – Provision of facilities for disabled people
- C38 – Satellite dishes in conservation areas and on listed buildings
- C39 – Telecommunication masts and structures
- ENV1 – Development likely to cause detrimental levels of pollution
- ENV2 – Redevelopment of sites causing serious detriment to local amenity
- ENV12 - Development on contaminated land

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- National Model Design Code
- Levelling Up and Regeneration Act
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)
- County Council guidance documents.

9. APPRAISAL

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

- Principle of development
- Design, layout and the Development Brief
- Highways, Access and Transport Matters
- Heritage impact
- Ecology impact
- Landscape Considerations
- Mitigation to Climate Change
- Noise, Air Quality and Ground Conditions
- Flooding and Drainage
- S106 Contributions
- EIA Regulations

Principle of Development

9.2 The application site is part of an allocated site under the Local Plan Partial Review related to Oxford’s Housing Need (Policy PR7a). The allocation identified the land for 430 houses of the 4,400 houses required across the Partial Review sites. The allocation forms part of the strategy to provide new development that meets Oxford’s agreed, identified housing needs, supports the city’s world-class economy, universities and its local employment base, and ensures that people have convenient, affordable and sustainable travel opportunities to the city’s places of work, study and recreation, and to its services and facilities. This development will be provided so that it:

- i. creates balanced and sustainable communities

- ii. is well connected to Oxford
 - iii. is of exemplar design which responds distinctively and sensitively to the local built, historic and environmental context
 - iv. is supported by necessary infrastructure
 - v. provides for a range of household types and incomes reflecting Oxford's diverse needs
 - vi. contributes to improving health and well-being, and
 - vii. seeks to conserve and enhance the natural environment
- 9.3 For the avoidance of doubt the application site has been removed from the Green Belt as part of the Local Plan Partial Review. Changes to the Green Belt can only be made through the Local Plan process.
- 9.4 The allocation identifies that the proposals should deliver:
1. Construction of 430 dwellings (net) on 21 hectares of land (the residential area as shown).
 2. The provision of 50% of the homes as affordable housing as defined by the National Planning Policy Framework.
 3. The provision of 0.7 hectares of land within the developable area for an extension to Kidlington Cemetery.
 4. The provision of 11 hectares of land to provide formal sports facilities for the development and for the wider community and green infrastructure within the Green Belt.
 5. Provision for required emergency services infrastructure.
 6. The provision of facilities for play areas and allotments to adopted standards within the developable area.
 7. Contributions to the provision of community facilities in accordance with the Council's adopted standards.
- 9.5 The allocation has been submitted in two parts with two developers. This application considers the northern half of the development with the southern section being considered under 22/00747/OUT which received a resolution to grant subject to completion of the s106 at October's Planning Committee. The southern application includes allotments, formal sport, community facilities and open space provision whilst this smaller portion provides the cemetery and open space.
- 9.6 The Council can demonstrate a five-year housing land supply when considering its own housing position. Due to the specific nature of the proposals in relation to an allocation in terms of Oxford's Unmet Housing Need, the Council calculates this provision separately. Whilst approximately 4,400 homes are allocated as part of the Local Plan Partial Review, none of these sites have yet progressed to full permission or are on site. As such, the Council's position in relation to Oxford's Unmet Housing Need is that the Council cannot demonstrate a five year housing land supply and therefore the delivery of permissions for housing on the allocations carry additional positive weight and any adverse impacts of proposals would have to significantly and demonstrably outweigh the benefits.
- 9.7 The Levelling Up and Regeneration Act which recently received Royal Assent has no implications on the adopted Development Plan or the adopted strategy.
- 9.8 Overall, the proposals follow broadly the principles of the allocation and the Development Brief and there is no issue with the subdivision of the site in the manner proposed as it will still enable a comprehensive development to be achieved. The approach to the allocation and delivery of housing in this location is considered to be

acceptable. There is no overriding reason as to why the principles established by the allocation of PR7a cannot be delivered.

Design, Layout and the Development Brief

- 9.9 The application is supported by a range of plans and documents which show the proposed house types and the arrangement of the proposed development. The proposals are a full application and therefore all matters are under consideration. The comments of the Parish Councils, consultees and the local residents have been given careful consideration as part of the proposal and the formation of the amended plans.
- 9.10 Amendments have included alterations to the landscaping to form an appropriate relationship between the proposed development and Beagles Close, altered access, layout and house type orientation, amendments to the design of the apartments and amendments to the design and layout of the parking courts in support of the Police original comments and improvement to the southern buffer to 4m in width to allow appropriate access and maintenance to existing hedgerows.
- 9.11 The policy sets out that the proposals should provide the following:
- Opportunity to create an integrated extension to Kidlington that provides an appropriate edge to the village and maximises walking and cycling links and provides well connected green infrastructure.
 - Layout to enable a high degree of integration and connectivity between the proposed development and the existing, particularly to Kidlington where local amenities are accessed including Stratfield Brake Sports Ground.
 - Opportunity to create a distinctive neighbourhood but at the same time respond appropriately to the landscape, settlement patterns, building typologies and traditional materials of the local area (See Cherwell Design Guide section 2.3).
 - Development should be sensitive to the historic development pattern of Water Eaton Lane.
 - Opportunity to create frontage to proposed public open space and sports facilities.
 - Design to consider appropriate building heights and character relating to the existing residential character of the surrounding area
 - Opportunity to provide an enhanced area of woodland along the south-eastern boundary of the site and establish a new area of woodland planting to screen the site from highways/rail infrastructure.
 - Opportunity to protect, restore or enhance existing hedgerows and trees.
 - Opportunity to protect and enhance the existing wildlife corridors and provide a connected corridor of green infrastructure across the site, joining with Stratfield Brake District Wildlife Site, NERC Act S41 Habitat and PR7b.
 - Opportunity to retain existing ponds and ditches within the landscape design of the site as part of the Sustainable Drainage System.
 - Opportunities to retain and enhance existing habitats and achieve a net gain in biodiversity through the creation of new/improved habitats.
- 9.12 The Council has also agreed a Development Brief for the allocation which seeks to guide development principles and detail and establish design quality through four-

character areas. These four-character areas are the Bicester Road frontage, a main street character, green edges character and a character to the sports and parkland area. The comments of Water Eaton and Gosford Parish Council with regard to access and connections are noted however these broadly follow the adopted Development Brief and in turn Development Plan policies.

- 9.13 The NPPF emphasises that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Policy ESD15 of the Cherwell Local Plan 2015 and policies C28 and C30 of the Cherwell Local Plan 1996 also require good design that respects its context and does not cause harm.
- 9.14 The application shows a principal access point which curves through the site to the southern boundary to connect to the southern half of the proposed allocation. Further the inclusion of cycle/pedestrian access at the northern end of the site to both Water Eaton Lane and Bicester Road would also create good connections to the wider area. The proposals are therefore considered to be acceptable and in accordance with the aims and objectives of the Development Brief and the allocation.
- 9.15 The concerns of residents have been considered in relation to the impact of the proposals on the privacy and impact of the development. Having regard to the separation distances and guidance contained in Cherwell Residential Design Guide it is considered that the proposals, in particular, would not harm the amenity or privacy of neighbouring or nearby residents.
- 9.16 The proposals would be designed in a manner to the north to reflect an informal shared surface to slow traffic speed and to give priority to the pedestrian and non-vehicular traffic over the car. This would be in accordance with national best practice (Manual for Streets) and the principles of the Design Guidance.
- 9.17 The provision of open space would provide appropriate play and informal open space. The development would be reliant on the formal play and sports provision provided by the southern half of the allocation under planning application 22/00747/OUT.
- 9.18 Following consultation and amendments, the Police's concerns and objections have been addressed.
- 9.19 The design of the buildings is proposed to be traditional in design and appearance with a majority being two storey and brick and tile. The eventual materials are to be agreed by condition, but the plans show a range of light brick, render and red brick which reflects the varied character of the area. Windows have been added in appropriate locations to address the Police concerns with regard to surveillance and overlooking. The design of the apartments is considered appropriate as creating a feature entrance to the site and this accords with the Development Brief which sets out the opportunity for taller buildings in this part of the site. Overall it is considered that the design and appearance of the proposed dwellings are considered to be appropriate for the location.
- 9.20 Overall, the proposals when considered as a whole would be in accordance with Policy PR2 and PR7a of the Partial Review, Policy ESD15 of CLP 2015 and the saved Policies C28 and C30 of the CLP 1996 together with the aims of the National Planning Policy Framework and other associated guidance including the adopted Development Brief, Cherwell Residential Design Guidance and the national model design code.

Highways, Access and Transport Matters

- 9.21 NPPF paragraph 113 states that all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed. The Transport Decarbonisation Plan and DfT Circular 01/2022 also set out that we need to move away from transport planning based on predicting future demand to provide capacity ('predict and provide') to planning that sets an outcome communities want to achieve and provides the transport solutions to deliver those outcomes (sometimes referred to as 'vision and validate').
- 9.22 The National Design Guide states:
75. Patterns of movement for people are integral to well-designed places. They include walking and cycling, access to facilities, employment and servicing, parking and the convenience of public transport. They contribute to making high quality places for people to enjoy. They also form a crucial component of urban character. Their success is measured by how they contribute to the quality and character of the place, not only how well they function.
- 76. Successful development depends upon a movement network that makes connections to destinations, places and communities, both within the site and beyond its boundaries.*
- 9.23 NPPF paragraph 105 also prescribes that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.
- 9.24 Policy PR4a of the Partial Review, Policies ESD13, ESD15 and SLE4 of CLP 2031 Part 1) and saved policy C30 of the CLP 1996 echo the principles of active travel.
- 9.25 The proposed development includes a number of access points for vehicle and non-vehicular travel which will promote active use from the site. The site is well positioned to take advantage of local services as well as being easy access to Oxford by public transport.
- 9.26 The application is supported by a Transport Assessment and technical notes. Since adoption of the Partial Review Local Plan the developers of the PR Sites and their Transport Consultants have been working with the County Council to ensure that the impact and mitigation of the PR sites are delivered in a consistent and coordinated manner. That work is now complete.
- 9.27 The road layout and accesses to individual properties has been assessed as part of the application process and has been found to be acceptable when considering the visibility splays and road layout. The use of shared surfacing in roads to the north are considered to be acceptable and would promote pedestrian use of the streets and activity. Indeed pedestrian and cycle users would have prominence over cars in many parts of the layout. The layout is therefore designed appropriately for the person.
- 9.28 The level of car parking would be slightly higher in some properties than the OCC Parking Standards due to the design of the proposals and length of some of the drives. When considered as a whole the development would be below the level of parking standard in County Council Guidance. Taking account of the design and layout and the general acceptability the proposed layout, the comments, having been considered as a whole are acceptable.
- 9.29 In being a guidance document, the parking standards are not prescriptive and as such there will be occasions where lower and higher amounts of car parking are noted. Whilst this is noted the overall parking provision is considered to be acceptable. The

provision of visitor spaces for Plots A20 and A21 are also noted but no amendment is required as these could also support the use of the green space to the north of the proposed space. Following discussion with the County Council and applicant the parking to plot A26 has been amended to remove the space closest to the junction with the main road which overcomes the reason for objection on the amount of car parking and position of the space to this plot.

- 9.30 The application seeks provision for new bus stops and the position is a matter to which the highway authority would be in control with the bus stops being positioned on highway land and under highway powers without the need for planning permission (through permitted development rights). It is therefore not necessary to add a further condition to secure this matter. Contributions are sought towards public transport services and public transport infrastructure.
- 9.31 OCC have requested the use of a planning obligation to secure a TRO fee towards administering a Controlled Parking Zone (CPZ) on the site and for a scheme to be provided to secure a private scheme of resident parking to deter commuter parking within the development to mirror the operation of a CPZ prior to the formal TRO process. OCC consider this to be necessary on all of the edge of Oxford sites due to the risk of indiscriminate parking by those who wish to travel into the city leaving their cars in local residential roads. Their view is that to embed behaviours from the outset, to manage new resident expectations on the sites and to protect residential amenity and safe access, that an arrangement is required prior to roads being adopted which is only when a formal CPZ could be pursued. Considering the lack of indiscriminate parking in the locality of the application site, the need for such a requirement is also questioned.
- 9.32 Officers have queried the necessity in planning terms, legality and enforceability of such a proposal in terms of where the powers would lie and how that would occur when the roads are private and have sought examples from elsewhere as OCC have secured this arrangement locally (and whether those other scheme(s) provided an interim scheme and whether this has been successfully implemented/ what issues have occurred if any). The type of scheme proposed has also been queried and whether this is an arrangement that the Developer puts in place such as a private enforcement scheme which has been used elsewhere in the District.
- 9.33 Officers are awaiting a response from OCC but understand their intention. Discussions on this matter will continue to attempt to reach a suitable resolution through the legal agreement process.
- 9.34 Conditions are therefore added in respect of electric vehicle charging points, construction management, access details and travel plan/information pack.
- 9.35 Having considered all matters it is considered that the proposals would achieve a satisfactory form of development subject to a condition securing the final detail of the proposed access and S106 obligations to secure on and off site infrastructure required to mitigate the impact of the proposals. The development would be in accordance with the aims and objectives of the Development Plan, seeking to reduce the need to travel by unsustainable modes and the aims and objectives of the National Planning Framework.

Heritage Impact

- 9.36 The site is located within an area of known archaeological potential with prehistoric and Roman finds. There is moderate potential for agricultural postmedieval archaeology. There are ridge and furrow earthworks between Kidlington Cemetery and former allotments. The site is separated from Kidlington Conservation Area and

the nearest listed buildings by modern development. However, older properties on Water Eaton Lane could be non-designated heritage assets.

- 9.37 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
- 9.38 Likewise Section 66 of the same Act states that: *In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.* Therefore significant weight must be given to these matters in the assessment of this planning application.
- 9.39 Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 199 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* Policy ESD15 of the CLP 2031 Part 1 echoes this guidance.
- 9.40 Due to the intervening distance and buildings there would be no impact on designated heritage assets. The impact on non-designated assets archaeology is the key asset to be considered. It is noted that securing a programme of archaeological works including targeted excavation via an appropriately worded planning condition would mitigate any harm arising from the development.
- 9.41 On considering the properties on Water Eaton Lane in terms of their age, architectural style and historic significance it is considered that the proposals would result in limited and less than substantial harm to non-designated heritage assets.
- 9.42 The impact on non-designated heritage assets on Water Eaton Lane are considered to result in less than substantial harm and therefore when balanced against the benefits of the scheme are considered to be acceptable.
- 9.43 It is considered that the proposals are acceptable and in accordance with national legislation and policy requirements and the policies of the Development Plan.

Ecology Impact

- 9.44 The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments.
- 9.45 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).
- 9.46 Paragraph 174 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.

- 9.47 Paragraph 180 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.
- 9.48 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.
- 9.49 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.
- 9.50 The submitted Ecological Assessment sets out that the planting strategy adopted should aim to utilise a range of native wildlife friendly species which will produce nectar and berries, and where necessary, non-native/ornamental species which have acknowledged value for biodiversity. The planting scheme should create structural diversity and maximise connectivity to the wider area.
- 9.51 Species-rich meadow grassland should be incorporated where possible into areas of public open space and have been created at the northern boundary with Beagles Close. This would enhance the foraging opportunities for a variety of local wildlife, including invertebrates, bats, birds and hedgehogs.
- 9.52 Hedgerow planting should be incorporated into the soft landscaping scheme to mitigate for hedgerow loss.
- 9.53 Any SuDS features proposed should be engineered to retain an area of standing water and planted with marginal plant species, appropriate to the ground conditions, with a view to increasing the botanical diversity of the site. Habitat creation around SuDS features should provide potential foraging habitat for bats, birds, amphibians and reptiles, and potential refuge for amphibians and reptiles.
- 9.54 Bat and bird boxes are recommended to be integrated into the walls of the residential properties or may be installed on mature trees within hedgerows or along the woodland edge where permission allows. This will provide long-lasting opportunities for roosting bats that require minimal maintenance.
- 9.55 A small bug hotel could be secured to a tree with a hedgerow or along the woodland edge to the eastern edge. This will provide habitat for invertebrates on site. Log and brash piles could be created within the woodland adjacent to the site where permission allows. This will create refugia within the site for amphibians, reptiles, hedgehog and invertebrates.

- 9.56 Any fencing that is to be installed should include gaps to allow for easy movement of hedgehogs.
- 9.57 The application is supported by a Biodiversity Matrix which indicates that the proposals would achieve a 12.36% habitat enhancement and 37.24% hedgerow improvement. This would be in excess of 10% as will soon be required under national legislation.
- 9.58 Overall, the proposals when considered as a whole would be in accordance with Policies PR5 and PR7a of the Partial Review and Policies ESD10 and ESD13 of CLP 2015 together with the aims of the National Planning Policy Framework and other associated guidance including the adopted Development Brief.

Landscaping considerations

- 9.59 The NPPF recognises the importance of green space and street trees and landscaping in the delivery of high quality design.
- 9.60 Policy ESD 13 sets out that opportunities will be sought to secure the enhancement of the character and appearance of the landscape, particularly in urban fringe locations, through the restoration, management or enhancement of existing landscapes, features or habitats and where appropriate the creation of new ones, including the planting of woodlands, trees and hedgerows. Landscape quality also forms an important part of design quality under Policy ESD15 of the CLP 2015.
- 9.61 The application is supported by a Landscape and Visual Assessment which demonstrates that the effect of the proposed development on the wider landscape is limited and that the most adverse effects occur in close proximity to the Site, particularly to the residential properties at Beagles Close and Water Eaton Lane which overlook the Site and the proposed development has been designed to respond positively to the character of the Site and its local landscape setting. The proposed development has sought to minimise the effect on the Site's character by retaining the existing tree belts to its boundaries and provide an open space set back to the eastern boundary to maintain a strong green edge to both the proposed development and the village of Kidlington.
- 9.62 The Assessment highlights that the proposals include significant measures to provide a high quality development with tree lined streets, connected open space areas and a new cycle route. The landscape masterplan proposes new tree, hedgerow and native buffer planting as well as wildlife meadows and areas of wet meadows which will increase the ecological value of the Site and integrate the proposals into the wider landscape. Although there will be adverse effects to residents in close proximity as the site changes from greenfield land, the effects on the wider footpath network are negligible due to the Site's limited visibility and enclosure provided by the strong vegetation to the Site's boundaries which are retained as part of the proposals.
- 9.63 The comments of consultees and objectors have been given careful consideration. As set out above the proposals include a number of natural and biodiversity enhancements which should be noted.
- 9.64 In relation to the existing cemetery, the environment is formed by low level landscaping (e.g. hedges). The relationship and surrounding environment will undoubtedly change as a result of the development. The layout has been considered with respect to its relationship to the cemetery extension land and there are just three gardens within close proximity to it with the majority of gardens otherwise set away to mitigate impacts to the extended cemetery and future visitors to it.

- 9.65 Whilst there would be some overlooking of the cemetery, this would not in itself be inappropriate, providing security and passive surveillance against anti-social behaviour are considered. Appropriate treatment to the cemetery is therefore a detailed matter however large buffers such as those suggested by landscape officers would not deliver the aims and objectives of the allocation or the Development Brief.
- 9.66 The comments on the LAP/LEAP provision are noted. The provision would not be suitable as a LEAP and therefore whilst providing some play equipment would be possible the proposals should be considered an enhanced LAP provision.
- 9.67 Appropriate separation with two storey housing to existing properties on Water Eaton Lane and Beagles Close and retention of existing trees and planting to the northern boundary is proposed.
- 9.68 As such, the proposals would be in accordance with the requirements of the allocation under Policies PR5 and PR7a of the CLP Partial Review, Policies BSC11 and ESD13 of the CLP 2015 and the aims and objectives of the National Planning Policy Framework.

Mitigation to Climate Change

- 9.69 Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Policies ESD1-5 of the CLP 2015 address this matter.
- 9.70 Policy ESD1 of the CLP 2015 deals with the issue of Mitigating and Adapting to climate change and includes criteria under which applications for new development will be considered, such as the requirement that development will incorporate suitable adaption measures to ensure that development is more resilient to climate change impacts by proposing sustainable drainage methods and increased green infrastructure provision.
- 9.71 Policy ESD2 considers Energy Hierarchy and Allowable Solutions and seeks to achieve carbon emissions reductions where the council will promote an 'energy hierarchy' as follows: *reducing energy use, in particular by the use of sustainable design and construction measures; supplying energy efficiently and giving priority to decentralised energy supply; making use of renewable energy and making use of allowable solutions*. Any new development will be expected to consider these and address the energy needs of the development.
- 9.72 Policy ESD3 considers Sustainable Construction and states that '*all new residential development will be expected to incorporate sustainable design and construction technology to achieve zero carbon development through a combination of fabric energy efficiency, carbon compliance and allowable solutions in line with government policy*'. Cherwell is also in an area of water stress and therefore requires all new development to achieve a limit of 110 litres/person/day.
- 9.73 Policy ESD4 considers the use of decentralised energy systems and requires a feasibility assessment to be submitted with a relevant application which includes developments of 100 dwellings or more.
- 9.74 Policy ESD5 considers renewable energy and requires that all residential developments of 100 dwellings or more are accompanied by a feasibility assessment of the potential for significant on-site renewable energy provision, above that required to meet national building standards.

- 9.75 The applicant acknowledges that the development will be built in the context of the 2025 Future Homes Standard and will include matters such as solar panels, fabric first construction measures, be gas free and to include matters such as electric vehicle charging points. The proposals also approach the matter to reduce carbon by at least 58% on 2021 building regulations standard with the further inclusion of solar panels secured by condition.
- 9.76 Overall the proposals would be in accordance with Section 14 of the NPPF and Policy PR7a of the CLP Partial Review, Policies ESD1-5 of the CLP 2015, and meets the aims and objectives of mitigating the impact of climate change.

Noise, Air Quality and Ground Conditions

- 9.77 The NPPF sets out at Paragraph 183 that decisions should ensure that:
- a. a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);
 - b. after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and
 - c. adequate site investigation information, prepared by a competent person, is available to inform these assessments.
- 9.78 Paragraph 185 of the NPPF states that 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. Saved Policies ENV1 and ENV12 of the CLP 1996 echoes these principles.
- 9.79 The application is supported by a Geo-environmental assessment to support the assessment of ground conditions, a Noise Assessment and Air Quality Assessment to ensure that the development achieves an appropriate standard of residential environment. The comments of the Council's Environmental Protection Officers are noted. The concerns about noise and disturbance from construction from local residents are also noted.
- 9.80 In respect of contamination and ground conditions, the proposals submitted demonstrates the risk from contamination is insignificant providing all recommendations in the report are followed. There is therefore no reason to suggest that the application site could not come forward.
- 9.81 In respect of noise this has been reviewed by Environmental Protection Officers and the layout and noise assessment submitted is considered to be appropriate subject to implementation of the recommendations (set out in a planning condition). Further the Construction Environment Management Plan (CEMP), should be conditioned. Whilst it would be inevitable that there would be some level of disturbance to the neighbouring residents, the CEMP should aim to manage the construction activities to minimise the level of disturbance through working hours management and reducing the need for piling, for example.

- 9.82 In respect of air quality, the relationship between the application proposals and Bicester Road would be important in ensuring that the residential environment created should also be appropriate.
- 9.83 Management of the construction process through dust suppression, for example would also be important through the CEMP.
- 9.84 Overall, taking into account the comments and responses received, the application would not raise any significant issues in relation to contamination and matters such as air quality and noise impacts could be managed through appropriate conditions including the CEMP.

Flood Risk and Drainage

- 9.85 Section 14 of the NPPF considers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 167 states that when determining any applications, local planning authorities should ensure that '*flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment*'.
- 9.86 Policy ESD6 of the CLP 2015 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk and 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.
- 9.87 Policy ESD7 of the CLP 2015, relates to sustainable drainage systems and advises that all development will be required to use sustainable drainage systems (SuDS) for the management of surface water run-off. Where site specific Flood Risk Assessments are required in association with development proposals, they should be used to determine how SuDS can be used on particular sites and to design appropriate systems. In considering SuDS solutions, the need to protect ground water quality must be taken into account, especially where infiltration techniques are proposed. Where possible, SuDS should seek to reduce flood risk, reduce pollution and provide landscape and wildlife benefits. SuDS will require the approval of Oxfordshire County Council as Lead Local Flood Authority (LLFA). Proposals must also include an agreement on the future management, maintenance and replacement of the SuDS features.
- 9.88 The application is supported by a Flood Risk and Drainage Strategy and a further technical note on Foul Water Drainage discussions with Thames Water has been provided during the course of the application. The comments of the LLFA, Thames Water and CDC Drainage Officers and the concerns of residents and Gosford and Water Eaton Parish Council are noted.
- 9.89 The application site is located in Flood Zone 1 (low probability) and as such, the development itself is at a low (less than 1 in 1000 year) risk of flooding from rivers or the sea but is more than 1 hectare in size and therefore a detailed Flood Risk Assessment is required. The application was therefore accompanied by a Flood Risk Assessment accordingly.
- 9.90 The submitted flood risk assessment also demonstrates how the effects of climate change on flood risk within the site can be mitigated to the one in 100 year + climate change level with the use of a Sustainable Urban Drainage System. The SuDS incorporated into the proposal will consist of 2 attenuation basins located on the eastern boundary, and a swale feature.

- 9.91 Surface water flooding is a description for excessive overland flows that have yet to enter a natural or manmade receptor (e.g. aquifer, watercourse or sewer). Surface water flooding also occurs when the amount of runoff exceeds the capacity of the collecting system and spills onto overland flow routes.
- 9.92 Surface water flooding is usually the result of very intense, short lived rainfall events, but can also occur during milder, longer lived rainfall events, when collecting systems are at capacity or the ground is saturated. It often results in the inundation of low points in the terrain.
- 9.93 In accordance with the EA's Long Term Flood Risk Information, the development site is mostly at very low (< 0.1% AEP) risk of surface water flooding. However, a small area in the east is shown to have a medium to high risk from surface water flooding.
- 9.94 Development is not proposed within areas where the risk of surface water flooding is higher and the proposals include significant areas of sustainable drainage potential. The eventual detail of sustainable drainage, including their ecological enhancement, would be required through the conditions but the details show significant areas of sustainable drainage to the east and northern boundaries.
- 9.95 The Environment Agency, LLFA, Land Drainage and Kidlington Parish Council have been consulted on the latest information submitted and drainage strategy in relation to the Cemetery which was received on 6 November 2023. It is considered that a suitable solution could be found through appropriate technical information and appropriate mitigation could be provided. The LLFA and Land Drainage have not raised any objections in this regard and therefore if agreement is reached with the Environment Agency in consultation with Kidlington Parish Council it is therefore considered that a solution could be agreed. The recommendation is therefore made subject to the resolution of the Environment Agency's objection.
- 9.96 There is a comment raised by Thames Water as to the capacity of the water network to deliver water at an appropriate pressure. However, discussions with Thames Water have indicated that supply issues could be provided within a reasonable timescale but it is not clear what infrastructure is needed. Thames Water has suggested a condition requiring no occupation prior to the implementation of as yet undefined infrastructure. The applicant through the course of the pre-application process and application process has engaged with Thames Water, as outlined in supporting technical note on Foul Water Strategy.
- 9.97 Officers consider that notwithstanding the comments of Kidlington Parish Council and Gosford and Water Eaton Parish Council it is considered that appropriate drainage infrastructure will be provided.

Conclusion

- 9.98 The comments and concerns have been carefully considered and the comments of all consultees have been carefully considered. Considering the application site is located in Flood Zone 1 and the applicant's Flood Risk Assessment and Foul Water Drainage Strategy as updated on 6 November 2023, the proposals are considered to be capable of support and to be in accordance with Development Plan policy and national planning policy guidance subject to conditions.

S106 Contributions

- 9.99 Paragraph 54 of the NPPF states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used

where it is not possible to address unacceptable impacts through a planning condition. Paragraph 56 continues by stating that planning obligations must only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

9.100 Policy INF1 of the CLP 2015 covers the issue of Infrastructure. This Policy states, amongst other things, that the Council's approach to infrastructure planning in the District will identify the infrastructure required to meet the District's growth, to support the strategic site allocations and to ensure delivery by development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities. Other policies of the Development Plan including Policies SLE4, BSC7, BSC8, BSC9, BSC10, BSC11, BSC12, ESD6 and ESD13 which set out the levels and infrastructure expected from development.

9.101 Policy PR2 and PR7a of the CLP Partial Review states, amongst other things that at Kidlington and elsewhere, all proposed developments will be expected to provide at least 50% of new housing as affordable homes on site. The Policy continues by stating that the proposals will need to have regard to Oxford's Housing Needs and assessment and the definitions contained therein to achieve an appropriate mix best placed to meet Oxford's Unmet Housing Need.

9.102 The Council also has a Developer Contributions SPD in place which was adopted in February 2018. It should, however, be noted that this is a general guide and development proposals will continue to be assessed on a case-by-case basis with the individual circumstances of each site being taken into consideration when identifying infrastructure requirements.

9.103 Due to the level of development on the site the issue of affordable housing should be taken into account. Paragraph 65 of the NPPF states that where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. This application is for 96 residential units on the site which would represent a major application in terms of definition and therefore will need to take account of this and national initiatives such as First Homes.

9.104 The policy requirement is for 50% affordable housing as set out in Policy PR2 which would equate to 48 units.

9.105 In addition, it is also considered that the development should contribute towards community hall facilities, indoor and outdoor sports provision, highway infrastructure improvements contributions necessary for the development as outlined by the comments of the consultees. The County Council have also requested a contribution towards public transport services, as well as entering into a S278 agreement.

On Site Infrastructure and Enhancement to Open Space

9.106 The key on-site infrastructure includes the following which will be secured under planning conditions and s106s:

9.107 The on-site provision includes:

- 50% Affordable Housing
- An extension to the existing Cemetery to be transferred to Kidlington Parish Council.
- Open Space and Recreation including a Local Area of Play (shown as a LEAP/LAP)
- Sustainable Drainage

Off-site Contributions

9.108 The contributions sought include the following (with appropriate indexation to be applied):

- County Transport Contributions totalling c.£827,772 including:
 - £238,411 towards the Travel Hub
 - £94,188 towards the Cycle Superhighway
 - A contribution towards Cutteslowe Roundabout and Bicester Road Active Travel Enhancement
 - £133,208 towards enhancement of Kidlington Roundabout
 - £95,910 towards Public Transport Services
 - £34,395 towards new bus stops
 - £176,679 towards improvements of the bus lane improvements along Bicester Road to Kidlington Roundabout
 - £28,346 to junctions the A4260/ A4165 corridor to improve bus movements
 - £6,157 towards public realm enhancements on A4260
 - £6,640 towards a Traffic Regulation Order amendment to Bicester Road and to consult on the implementation of a Controlled Parking Zone or alternative parking restrictions within the site if deemed by the Local Planning Authority to meet the tests of a s106 obligation
 - £1,558 towards Travel Plan Monitoring
 - £12,280 towards enhancement of Public Rights of Way in the vicinity of the site.
- Education: £791,313 comprising
 - Secondary School: £676,438
 - Land Costs: £61,030
 - SEND: £53,845
- Healthcare: £84,648 towards Gosford Hill Medical Practice
- Community Hall - £109,754.04 (directed towards the provision on the southern half of the allocation)
- Outdoor Sport - £193,634.88 – towards Stratfield Brake or the southern half of the allocation or an alternative agreed scheme in the locality.
- Indoor Sport - £80,154.89
- Public Realm and Public Art - £18,816.00 – towards Kidlington Centre or alternative agreed scheme
- Open Space and Maintenance Contributions towards the formal play facilities on the southern half of the allocation.
- Library - £10,354 towards Kidlington Library

- Household Waste and Recycling - £9,020 towards enhancement of the waste and recycling facility.

9.109 The significant level of contributions in excess of £2.1m plus on site facilities are being delivered as part of the proposals on site. The drafting of the s106 will ensure that appropriate detail is delivered for the management and delivery of contributions and on site facilities. It should be noted that the development will need to make relevant contributions to the other half of the allocation to ensure fair distribution of the social benefit and proportionate contributions towards on-site facilities and the overall open space management. A roundtable discussion between all parties is therefore likely to be required.

9.110 Further detail is set out in the appendix to this report.

EIA Regulations

9.111 The applicant and neighbouring developer applied to the Secretary of State for a Screening Direction (reference 21/02864/SD) for the allocated site and up to 500 dwellings. The Secretary of State determined that for the purposes of the EIA Regulations, that the proposal is not EIA Development.

10. PLANNING BALANCE AND CONCLUSION

10.1. 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. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise.

10.2. The NPPF supports this position and adds that proposals that accord with an up-to-date development plan should be approved and those which do not should normally be refused unless outweighed by other material considerations.

Positive benefits - Economic

10.3. The proposals would contribute to the Council's Housing Supply in the short term due to the size and duration of the project and as part of the Development Plan would support the delivery of the Development Plan and growth strategy. The proposals would create construction jobs and also support the local public house/restaurant nearby and shopping facilities and employment in Kidlington. This is afforded very significant weight taking into account the scale of the proposed development.

Positive benefits - Social

10.4. The proposals would create the opportunity for affordable housing provision to meet Oxford's Unmet Housing Need. This attracts significant positive weight. The benefits of new recreational routes, play provision and the extension to the existing cemetery plus improvements to Stratfield Brake should also be afforded significant positive weight. Other s106 contributions should also be afforded significant positive weight.

Positive benefits - Environmental

- 10.5. Environmentally the proposals would offer a modern development that would accord with building regulations and include potential renewable energy. The proposals would also secure biodiversity net gain above the requirements of legislation and would be a positive environment in terms of the creation of sustainable drainage.
- 10.6. Other green space would also be given moderate weight as they are required to make the development acceptable and are not significantly above the expected policy levels.

Negative Impacts – Economic

- 10.7. There are no identified negative economic impacts that are identified.

Negative Impacts – Social

- 10.8. The proposals would have some negative impact on the amenity of neighbouring residents particularly during the construction of development. This would be a limited negative consideration on the social well-being of residents as it is a matter which could be managed through appropriate mitigation and management of the construction process. The impact of the proposals on the use of the cemetery have also been considered.

Negative Impacts – Environmental

- 10.9. During the construction of development there would be disturbance and impacts arising from the implementation of the development this would be a moderate negative consideration on the local environment.
- 10.10. The concerns and relationship of the cemetery and the position of the LAP have also been factored into the consideration and appropriate landscape and ecology mitigation is proposed to compensate for any lost elements during construction.
- 10.11. The proposals would also have a negative impact in terms of the use of land, resources, materials and other impacts arising from the development. This impact is considered to be limited as the proposals form part of the planned growth in the District.

Conclusion

- 10.12. The Council is not able to demonstrate a five-year supply of land for housing for Oxford's Unmet Housing Need but the proposals form part of the Development Plan which is in the post adoption stage where action can be expected to be taken to address such a shortfall. The approval of this application forms part of the adopted Development Plan and strategy to address the housing need.
- 10.13. As an allocated site, the proposals form part of the wider Housing Needs for the area and Oxford City and include a significant level of on-site facilities that are in accordance with the aims and objectives of Policy PR7a of the Local Plan Partial Review and associated guidance. Being a full application, the design, layout and detailed aspects of the scheme have been assessed and concluded to be acceptable as set out through this appraisal.
- 10.14. The proposals have been carefully considered and having considered the development as a whole the proposals are considered to be acceptable when considered against the Development Plan and National Planning Policy Framework as a whole and the positive benefits significantly and demonstrably outweigh the negative aspects of the proposals.

11. RECOMMENDATION

DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT THAT SUBJECT TO:

- i. THE RESOLUTION OF THE ENVIRONMENT AGENCY OBJECTION TO THE SATISFACTION OF THE ASSISTANT DIRECTOR;**
- ii. THE EXPIRY OF THE CONSULTATION PERIOD TO GRANT PERMISSION;**
- iii. THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND;**
- iv. 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 50% affordable housing on site**
 - b. On site green space and recreational routes and appropriate maintenance contribution/arrangements including proportionate contributions towards the formal provision provided as part of the southern half of the PR7a allocation.**
 - c. Payment of a financial contribution towards proportionate highway contributions as set out in Appendix 4 of the Partial Review Local Plan.**
 - d. Payment of a financial contribution towards Community Hall and Development, Outdoor and indoor sport contributions or facilitating the delivery on the southern half of the PR7a allocation**
 - e. Payment of a financial contribution towards Healthcare**
 - f. Payment of a financial contribution towards Education**
 - g. Payment of a financial contribution towards Library Services**
 - h. Payment of a financial contribution towards Police**
 - i. Appropriate arrangements for Open Space Management**
 - j. Appropriate arrangements for the delivery and transfer of the cemetery extension to Kidlington Parish Council.**
 - k. Payment of the Council's monitoring costs of £5,000 plus OCC Monitoring Costs**
 - l. For completeness - a controlled parking zone (CPZ) or other such controls should not be included in the s106 unless deemed by the Local Planning Authority to meet the legal tests for inclusion in a s106 Agreement**

FURTHER RECOMMENDATION: THE STATUTORY DETERMINATION PERIOD FOR THIS APPLICATION HAS EXPIRED. IF THE SECTION 106 AGREEMENT/UNDERTAKING IS NOT COMPLETED AND THE PERMISSION IS NOT ABLE TO BE ISSUED WITHIN 6 MONTHS AND NO EXTENSION OF TIME HAS BEEN AGREED BETWEEN THE PARTIES, IT IS FURTHER RECOMMENDED THAT THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT IS GIVEN DELEGATED AUTHORITY TO REFUSE THE APPLICATION FOR THE FOLLOWING REASON:

In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate on site infrastructure and off site contributions towards affordable housing education, transport, community facilities, indoor and outdoor sport, open space, library and

police required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and contrary to Policies PR2, PR7a and PR11 of the Cherwell Local Plan 2011 - 2031 (PART1) Partial Review, and Policies INF1, SLE4, BSC7; BSC8; BSC9; BSC10, BSC11, BSC12, ESD6 and ESD13 of the Cherwell Local Plan 2011-2031 (Part 1), guidance within the Council's Developer Contributions SPD and the aims and objectives of the National Planning Policy Framework.

PROPOSED CONDITIONS

Time Limit

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Compliance with Plans

2. 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:

Site Location Plan - 141 PS 110

Topographical Survey - A524/99991/1 Rev A

Proposed Site Plan - 141-PS-100 Rev U

Illustrative Landscape Masterplan - 22027-GUA-DR-L-001 Rev P10

Outline Soft Landscape Proposals - 22027-GUA-DR-L-002 Rev P08

Outline Hard Landscape Proposals - 22027-GUA-DR-L-003 Rev P07

Outline Boundary Treatment Plan - 22027-GUA-DR-L-005 Rev P06

Plant Schedule and Outline Specification - 22027-GUA-DR-L-006 Rev P04

3D View - Bicester Road - 141-PS-601 Rev D

3D View - Open Space - 141-PS-602 Rev B

3D View - SUDs Features - 141-PS-603 Rev B

Central Parking Court View - 141-PS-605 Rev B

Primary Route View - 141-PS-606 Rev B

Cycle Route (North) - 141-PS-607 Rev A

Cycle Route (South) - 141-PS-608 Rev A

Northern Amenity Space - 141-PS-609 Rev A

Streetscenes J-J - 141-511 Rev A

Streetscenes K-K - 141-512 Rev A

Housetype 5B9P-1 - M4(3) Adaptable- 141-MC-5B9P-1-M4(3)

Housetype 3B6P-1 - 141-AC-3B6P-1-Semi-2 Rev B

Housetype 3B6P-1 - 141-AC-3B6P-1-Semi-1 Rev B

Housetype 3B6P-1 - 141-AC-3B6P-1-Semi-2 Rev A

Housetype 4B8P-1 - 141-AC-4B8P-1-1 Rev E

Housetype 4B8P-1 - 141-AC-4B8P-1-2 Rev D

Housetype 4B8P-1 Corner - 141-AC-4B8P-1-Corner Rev E

Housetype 2B4P-2 - 141-AFF-2B4P-2-Semi-1 Rev B

Housetype 2B4P-2 - 141-AFF-2B4P-2-Semi-2 Rev C

Housetype 2B4P-1 - 141-AC-2B4P-1-Semi-1 Rev B

Housetype 2B4P-1 - 141-AC-2B4P-1-Semi-2 Rev B

Housetype 2B4P-1 - 141-AC-2B4P-1-Terrace-1 Rev D

Housetype 2B4P-1 - 141-AC-2B4P-1-Terrace-2 Rev E

Housetype 3B6P-1 - 141-AC-3B6P-1-Det-1 Rev B

Housetype 3B6P-1 - 141-AC-3B6P-1-Det-2 Rev B
Housetype 5B9P-1 - 141-MC-5B9P-1 Rev E
Housetype 5B9P-1 - M4(3) Adaptable - 141-MC-5B9P-1-M4(3) Rev B
Housetype 5B9P-1 - 141-MC-5B9P-1-Vista Rev C
Housetype 3B-5P-1 - 141-BS-3B-5P-Det-Corner Rev B
Housetype 3B-5P-1 - 141-BS-3B-5P-Det-Vista Rev B
Housetype 3B5P-1 - 3B6P-1 - 141-BS-3B-5P-MT Rev B
Housetype 3B-5P-1 - 141-BS-3B-5P-Semi-1 Rev B
Housetype 3B-5P-1 - 141-BS-3B-5P-Semi-Vista Rev B
Housetype 3B6P-1-4B7P-1 - 141-BS-AFF-3B6P-1-AFF-4B-7P Rev D
Housetype 3B6P-1 - 141-BS-AFF-3B6P-1-C Rev D
Housetype 3B6P-1 Semi - 141-BS-AFF-3B6P-1-S Rev B
Housetype 3B6P-1 Semi 2 - 141-BS-AFF-3B6P-1-S2 Rev B
Housetype 3B6P-1 Terrace - 141-BS-AFF-3B6P-1-T Rev D
Housetype - 4B7P-1 - 141-BS-AFF-4B7P-1 Rev A
Apartment 02 Elevations - 141-APT-02-E Rev G
Apartment 02 Plans - 141-APT-02-P Rev F
Apartment 01 Elevations - 141-APT-01-E Rev H
Apartment 01 Plans - 141-APT-01-P Rev H
Bike Store Apartment - 141-Bike Store 01 Rev C
Bin Store 01 - 141-Bin Store 01 Rev B
Bin Store 02 - 141-Bin Store 01 Rev D
Detached Double Garage - 141-Double Garage
Electric Substation - 141-Electric Substation Rev B
Detached Twin Garage - 141-Twin Garage
Detached Single Garage - 141-Single Garage

Documents:

Design and Access Statement (September 2023)
Energy Statement (December 2022)
Service Supply Statement (ref. 10869 SS01 Rv0)
Planning Statement (December 2022)
Health Impact Assessment (November 2022)
Travel Plan (rev C)
Transport Statement (rev C) and Addendum (September 2023)
Land Management & Maintenance Plan (ref. 22027-GUA-DOC-L-001 rev P02)
Landscape & Visual Appraisal (ref. 22027-GUA-DOC-L-001 rev P05)
Social Value Delivery Plan (rev 1)
Written Scheme of Investigation for a Geophysical Survey (April 2023)
Flood Risk Assessment / Drainage Strategy (rev C) and Addendum (September 2023)
Air Quality Assessment (ref. H3115 – AQ – v2)
Arboricultural Impact Assessment (ref. EAS-143 V2)
Phase 1 Environmental Report (ref. CRM.1027.052.GE.R.001)
Biodiversity Net Gain Design State Report (December 2022)
Ecology Assessment (rev 1.1)
Geo-Environmental Report (ref. CRM.1027.132.GE.R.001.A)
Geophysical Survey Report (07 March 2023)
Kidlington Cemetery Groundwater Risk Assessment (ref. CRM.1027.052 GE.R.002A T1/T2 GRA)
Drainage Strategy (ref. 517-P-010-C)
Noise Assessment (ref. H3115 – NV – v4)
Plant Schedule and Outline Specification (ref. 20027-GUA-DR-006-P04)

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with

Government guidance contained within the National Planning Policy Framework.

CEMP

3. No development shall take place until a Construction and Environmental Management Plan (CEMP) has been submitted to and agreed in writing by the Local Planning Authority. The details shall include the following:

i) Implementation of air quality and dust suppression management measures through a Dust Management Plan;

ii) Working hours and construction traffic delivery times;

iii) The protection of the environment and implement best practice guidelines for works within or near water and habitats, including the appointment of a qualified ecologist to advise on site clearance and construction, in particular any works that have the potential to disturb notable ecological features

iv) Measures to minimise energy requirements and emissions from equipment and plant (including minimising the use of diesel or petrol powered generators and instead using mains electricity or battery powered equipment; powering down of equipment / plant during periods of non-utilisation; optimising vehicle utilisation; use of energy efficient lighting)

v) A Construction Traffic Management Plan (CTMP) and traffic routing, temporary access and haul roads to ensure construction vehicles, materials and logistics saving measures are managed

vi) Measures to minimise greenhouse gas emissions associated with the production of waste including the reuse and recovery of materials where possible, avoid excavation waste, management of water and water resources, the reuse and/or recycling of construction waste on-site in subsequent stages of the development.

vii) Measures to reduce the impact on neighbouring and nearby residents and associated temporary fencing, lighting and construction compounds and activity through the operational phase of development

viii) Details of site management including a method for creation of logging of visitors and contractors on site, the monitoring incidents and complaints), including monitoring and reporting (including site inspections, soiling checks, compliance with Dust Management plan, etc) and, where appropriate, CCTV and tracking of contractor vehicles to ensure appropriate routing of vehicles

The development shall be constructed in accordance with the agreed Construction and Environmental Management Plan.

Reason: To manage construction process and to ensure that the impacts to soils, air quality, contamination and ground conditions, ecological habitats, cultural heritage, noise and vibration, heritage assets, transport and waste as well as neighbouring and nearby residents and climate impacts are managed in accordance with the mitigation outlined in the application submission and Policies ESD3, ESD15 and INF1 of the Cherwell Local Plan 2011-2031 and saved policies ENV1 and ENV12 of the Cherwell Local Plan 1996 and the aims and objectives of the NPPF.

LEMP

4. Notwithstanding the submitted Land Management & Maintenance Plan (ref. 22027-GUA-DOC-L-001 rev P02), prior to first occupation of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the LEMP shall be carried out in accordance with the approved details.

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.

Ground conditions

5. If, during remediation or construction works, any additional or unexpected contamination is identified, then remediation proposals for this material should be agreed in writing by the Local Planning Authority before any works proceed and shall be fully implemented prior to first occupation of the dwellings hereby approved.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policies ENV1 and ENV12 of the Cherwell Local Plan 1996.

Access onto Bicester Road

6. No development shall take place until details of the means of access (shown on Proposed Site Plan - 141-PS-100 Rev U) between the land and the highway, including, sections, drainage and layout have been submitted to and approved in writing by the Local Planning Authority. The means of access shall be constructed in strict accordance with the approved details and shall be retained and maintained as such thereafter.

Reason - In the interests of highway safety and to comply with Policies PR1, PR4a, PR7a and PR12a of the Cherwell Local Plan 2011-2031 Part 1 (Partial Review) and Policies SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Archaeology

7. No development shall take place until (other than in accordance with the agreed and submitted Written Scheme of Investigation: Written Scheme of Investigation for an Archaeological Evaluation on the Gosford Site, Bicester Road Pre Construct Archaeology 2023), a staged programme of archaeological evaluation and mitigation has been carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority within two years of the completion of the archaeological fieldwork.

Reason – To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with the NPPF (2023).

Drainage and Water

8. i) No development shall take place until a detailed surface water strategy, water supply and foul drainage plans to demonstrate how the management of water within the approved development accords with the overarching Drainage Strategy (ref 517-P-010 Rev C) and the approved Flood Risk Assessment and associated documents has been submitted to and approved in writing by the Local Planning Authority.

ii) The submitted strategy shall include details of all flow control systems and the design, location and capacity of all strategic SuDS features and shall include ownership, long-term adoption, management and maintenance schemes and monitoring arrangements/responsibilities. The strategy should also demonstrate that the exceedance of the designed system has been considered through the provision of overland flow routes.

iii) The development shall be carried out in full accordance with the approved detailed surface water strategy, water supply and foul drainage plans and no building shall be occupied or used until such time as the approved detailed measures serving that building have been fully completed in accordance with the approved details.

Reason: In order to reduce the risk of flooding, to ensure adequate flood control, maintenance and efficient use and management of water within the site, to ensure the quality of the water entering receiving water courses is appropriate and monitored and to promote the use of sustainable urban drainage systems to limit the volume and rate of water leaving the site and to ensure new environments and habitats are formed across the site. In accordance with Policies ESD6, ESD7, ESD8 and ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Materials

9. A schedule of materials and finishes including samples (in a panel where relevant) to be used in the external walls and roof(s) of the dwellings shall be submitted to and approved in writing by the Local Planning Authority prior to works above ground level. The development shall thereafter be completed in accordance with the approved details.

Reason: To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Landscaping

10. No development shall take place until a detailed scheme of hard and soft landscaping works based on the submitted landscape masterplan and the approved plans (reference Outline Soft Landscape Proposals - 22027-GUA-DR-L-002 Rev P08 and Outline Hard Landscape Proposals - 22027-GUA-DR-L-003 Rev P07) has been submitted to and approved in writing by the Local Planning Authority. These details will include the following:

- Identification of existing trees, shrubs and other vegetation to be retained including details of tree protection fencing to protect them during the construction process

- Wildlife habitat creation of potential benefit to protected species. The extent, location and design of such habitat shall be shown clearly and fully described.
- The creation of a visually attractive and stimulating environment for the occupiers of the future development, and other users of the site.
- The eradication of Japanese knotweed or other invasive species on the site, if applicable.
- The replacement of trees proposed to be lost in site clearance works.
- Details of the future management of the landscape scheme.
- Ground preparation measures to be adopted.
- Full botanical details, numbers, locations, planting specifications and densities/ seeding rates of all plant material included within the landscape scheme.
- Existing and proposed levels.
- Programme for delivery of the approved scheme

The approved scheme shall be implemented in accordance with the relevant approved programme for delivery forming part thereof and shall be managed for at least 5 years from the completion of the relevant scheme, in accordance with the approved management details.

Reason: To ensure the satisfactory appearance of the development, provide appropriate landscaping and protect wildlife in accordance with Policies PR5 and PR7a of the Cherwell Local Plan 2011-2031 (Partial Review), Policies ESD10, ESD13 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Ecological Enhancement

11. a) Prior to above slab level works, details of Ecological Enhancement to achieve the submitted Biodiversity Matrix which indicates that the proposals would achieve at least 12.36% habitat enhancement and 37.24% hedgerow improvement. Details shall include:

- Species-rich meadow grassland should be incorporated where possible into areas of public open space and wildflower meadow planting
- New native and species rich in the soft landscaping scheme to mitigate for hedgerow loss.
- Any SuDS features proposed should be engineered to retain an area of standing water and planted with marginal plant species
- Bat and bird boxes are recommended to be integrated into the walls of the residential properties including swift boxes and/or may be installed on mature trees within hedgerows or along the woodland edge
- A small bug hotel to a tree with a hedgerow or along the woodland edge to the eastern edge.
- Log and brash piles in appropriate locations
- Any fencing that is to be installed should include gaps to allow for easy movement of hedgehogs.
- A timescale for implementation and management to be not later than final occupation of the development.

b) The approved scheme shall be implemented in accordance with the relevant approved programme for delivery forming part thereof and shall be managed for at least 5 years from the completion of the relevant scheme, in accordance with the approved management details.

Reason: To ensure that the development delivers the approved level of biodiversity net gain and appropriate landscaping and wildlife enhancement in

accordance with Policies PR5 and PR7a of the Cherwell Local Plan 2011-2031 (Partial Review), Policies ESD10, ESD13 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

LAPs and Informal Play

12. a) Prior to first occupation of the development details of Local Areas of Play (LAPs) or any other areas of informal play shall be submitted to and agreed in writing by the Local Planning Authority. The submitted information shall include details of site levels, play features, seating, pathways, planting and landscaping relating to that LAP or other area of informal play and a strategy for their implementation and management.

b) The development shall be carried out in accordance with the relevant agreed details and retained thereafter

c) Any trees or planting which form part of an agreed scheme pursuant to this condition and which should die or require replacement within the first 5 years after completion of the scheme shall be replaced as soon as practicable in the first available planting season.

Reason: To ensure that the proposals deliver an appropriate amount and variety of recreational opportunities for all ages in accordance with the submitted outline application and in accordance with Policies PR5 and PR7a of the Cherwell Local Plan 2011-2031 (Partial Review), Policies BSC10, BSC11, ESD6, ESD7, ESD15 and ESD17 of the Cherwell Local Plan 2011-2031 and saved policies C28 and C30 of the Cherwell Local Plan 1996 and the aims and objectives of the National Planning Policy Framework.

Street furniture

13. a) Prior to above ground works details of street furniture including seating, refuse bins and dog bins and bollards to cycleway access points shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details prior to first occupation of the development or an alternative agreed timescale.

Reason: To ensure that the proposals deliver appropriate levels of seating, communal bins for recreational purposes and manage access to cycleways and functioning of the development to provide an amount and variety of recreational opportunities for all ages in accordance with the submitted outline application and in accordance with Policies PR5 and PR7a of the Cherwell Local Plan 2011-2031 (Partial Review), Policies BSC10, BSC11, ESD6, ESD7, ESD15 and ESD17 of the Cherwell Local Plan 2011-2031 and saved policies C28 and C30 of the Cherwell Local Plan 1996 and the aims and objectives of the National Planning Policy Framework.

Lighting Strategy

14. No occupation shall take place until a detailed lighting strategy has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details. The details to be submitted shall include:

- i) Lighting for play
- ii) Lighting for public realm and walking and cycling routes
- iii) Areas of ecological areas where lighting will be prohibited.
- iv) A strategy for roads and communal parking
- v) A strategy for mitigation to reduce light pollution during construction.

Reason: To minimise light pollution from the construction and operational phase of development and to ensure that the proposals are in accordance Policies PR3, PR5 and PR7a of the Cherwell Local Plan 2011-2031 (Partial Review), Policies BSC10, BSC11, ESD13, ESD15 and ESD17 of the Cherwell Local Plan 2011-2031 and saved policies C28 and C30 of the Cherwell Local Plan 1996 and the aims and objectives of the National Planning Policy Framework.

Fibre Optic Infrastructure

15. a) Prior to their installation details of fibre optic infrastructure shall be submitted to and agreed in writing by the Local Planning Authority to demonstrate the completion of infrastructure to facilitate the provision of fibre optic cable to each dwelling upon the completion of the infrastructure.

b) The scheme shall be implemented in accordance with the agreed timescales and retained thereafter.

Reason: To provide appropriate and sustainable infrastructure for high speed internet connection in accordance with Policies PR7a, PR11 and PR12 of the Cherwell Local Plan 2011-2031 Part 1 (Partial Review) and the aims and objectives of the National Planning Policy Framework.

Residential Travel Plan and Information Pack

16. Prior to first occupation a Residential Travel Plan and Travel Information Pack shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan is to be updated on occupation of 50% of the site (48th dwelling). The development shall be implemented in accordance with the approved Travel Plan including the updated version as relevant.

Reason: To promote sustainable modes of transport in accordance with Policies PR4a and PR7a of the Cherwell Local Plan 2011-2031 Part 1 (Partial Review) and the aims and objectives of the National Planning Policy Framework.

PD Removal (extensions and outbuildings)

17. Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or succeeding and replacement legislation no works or additions under Schedule 2 Part 1 or Part 2 shall be carried out relating to any of the dwellings hereby approved or within their curtilage without prior express consent of the Local Planning Authority.

Reason: Having regard to the nature of the properties and the designs and the associated intimate relationship to which extensions within a permitted development remit may compromise and having regard to Development Plan Policies and guidance contained within the National Planning Policy Framework as a whole.

Parking and Turning areas

18. All parking and manoeuvring areas identified on the approved plans set out in Condition 2 shall be implemented prior to the first occupation of the relevant part of the approved development. Once implemented all parking, turning areas and garages shall remain for use of parking and manoeuvring of vehicles and shall not be used for alternative uses.

Reason - To ensure satisfactory functioning of the application site in accordance with Development Plan Policies and guidance contained within the National Planning Policy Framework.

EV Charging Points

19. No development above slab level shall take place until details of EV charging points have been submitted to and agreed in writing by the Local Planning Authority. The agreed details shall be implemented prior to the occupation of the relevant dwelling and shall be retained thereafter.

Reason - To ensure satisfactory access to the site for future residents and users of the development in accordance with Development Plan Policies and guidance contained within the National Planning Policy Framework.

Details of solar panels

20. Notwithstanding the submitted details, no development above slab level shall take place until details of solar panels have been submitted to and agreed in writing by the Local Planning Authority. The agreed details shall be implemented prior to the occupation of the relevant dwelling and shall be retained thereafter.

Reason - To ensure the development provides appropriate climate change mitigation for future residents and users of the development in accordance with Development Plan Policies and guidance contained within the National Planning Policy Framework.

Noise Mitigation

21. Prior to development above slab level a scheme to soundproof the affected dwellings against traffic noise shall be submitted to and approved by the Local Planning Authority so as to achieve an internal level in all sleeping areas of 30dB LAeq 1 hour and 45 dB L A max between 2300 hours and 0700 hours with windows shut and other means of ventilation provided. An internal level of 40dB LAeq 1 hour shall be achieved in all other areas of the building. All works that form part of the scheme shall be completed prior to occupation of the dwellings. The development shall be implemented in accordance with the approved details prior to the occupation of the relevant dwelling.

Reason - To ensure the development provides appropriate residential environment for future residents of the development in accordance with Development Plan Policies and guidance contained within the National Planning Policy Framework.

APPENDIX 1- Heads of Terms for Section 106 Agreement/undertaking

Planning obligation			Regulation 122 Assessment
Detail	Amounts (all to be Index linked)	Trigger points	
Affordable Housing	48 dwellings – 50% of total 3 built to M4(3) standard Social rent (34) – 5 x 1b2p flats - 10 x 2b4p flats 4 x 2b4p houses 12 x 3b6p houses 3 x 4b7p houses First Homes (12) 8 x 1b2p flats 4 x 2b4p flats Shared Ownership (2) 2 x 3b6p houses Plus all other arrangements as required to deliver acceptable affordable housing to meet needs	Suitable trigger points for an RP to be brought on board and then for the delivery of the affordable housing alongside the delivery of market dwellings.	<p>Necessary – Yes – The site is allocated as part of the Partial Review – Policy PR2 and PR7a are the relevant policies.</p> <p>Directly related – Yes – the affordable housing will be provided for the need identified in the Local Plan</p> <p>Fairly and reasonably related in scale and kind – Yes – the contribution is the level of the expected affordable housing.</p>
OCCG	£84,648	50% occupation or an alternative agreed trigger	<p>Necessary – The proposed development will lead to an increase in demand and pressure on existing services and facilities in the locality as a direct result of population growth associated with the development. Additional consulting rooms and enhanced capacity at Gosford Hill Medical Centre are therefore proposed through the</p>

			<p>contribution. The justification presented by the Healthcare provider (OCCG) is considered to be appropriate.</p> <p>Directly related – Yes. The proposals would be used towards the creation of consultation space</p> <p>Fairly and reasonably related in scale and kind – Yes</p>
Public Art, Public Realm and Cultural Wellbeing	£18,816.00	First occupation or an alternative agreed trigger	<p>Necessary – In accordance with the Council's Adopted SPD. Public Realm, Public Art and Cultural Well-being. Public realm and public art can play an important role in enhancing the character of an area, enriching the environment, improving the overall quality of space and therefore peoples' lives. SPD 4.132 The Governments Planning Practice Guidance (GPPG) states public art and sculpture can play an important role in making interesting and exciting places that people enjoy using and for neighbouring communities. The design of these should seek to be interactive and encourage imaginative play and stimulate curiosity about the natural environment. It is also recommended that the design and execution of the artwork embeds participatory activity for local schools and community groups to ensure the work is meaningful and inspires cultural wellbeing.</p>

			<p>Directly related – The recommendation is to engage a lead artist/artist team to develop a series of bespoke and creative waymarkers or landmark features around the cycleways and footpaths. These could also potentially be rolled out to other routes in the area to create a broader network and link in the neighbouring communities. The design of these should seek to be interactive and encourage imaginative play and stimulate curiosity about the natural environment. It is also recommended that the design and execution of the artwork embeds participatory activity for local schools and community groups to ensure the work is meaningful and inspires cultural wellbeing.</p> <p>Fairly and reasonably related in scale and kind – Based on £200 per residential dwelling (£16,800) plus 12% for management and maintenance (£2,016) is considered to be proportionate to the scale and location of the development</p>
<p>Outdoor Sports Provision</p>	<p>£193,634.88 – towards Stratfield Brake or the southern half of the allocation or an alternative agreed scheme in the locality.</p> <p>In this context of the above, proportionate contributions are sought to the southern half of the development under application reference 22/00747/OUT</p>	<p>50% of the development occupation or alternative agreed trigger.</p>	<p>Necessary – The proposed development will lead to an increase in demand and pressure on existing services and facilities in the locality as a direct result of population growth associated with the development in accordance with Policy BSC12, INF1 and advice in the Developer Contribution SPD</p>

			<p>Directly related – The future occupiers will place additional demand on existing facilities.</p> <p>Fairly and reasonably related in scale and kind – Calculations will be based on the Developer Contributions SPD calculation based on the final mix of housing and number of occupants.</p>
Indoor Sports Provision	£80,154.89	The amount to be phased across the delivery of the scheme. 50% to be delivered on first occupation, 50% on 50% occupation.	<p>Necessary – The proposed development will lead to an increase in demand and pressure on existing services and facilities in the locality as a direct result of population growth associated with the development in accordance with Policy BSC12, INF1 and advice in the Developer Contribution SPD. Contributions would be towards improvements at Kidlington & Gosford Leisure Centre and/or a new facility in the vicinity.</p> <p>Directly related – The future occupiers will place additional demand on existing facilities.</p> <p>Fairly and reasonably related in scale and kind – Calculations will be based on the Developer Contributions SPD calculation based on the final mix of housing and number of occupants.</p>
Community Hall	Community Hall - £109,754.04 (directed towards the provision on the southern half of the allocation)	50% of the development occupation or alternative agreed trigger	<p>Necessary - Seeking a contribution towards improvements at a community facility within the locality (potentially the community building as part of the</p>

			<p>proposals) in accordance with Policy BSC 12 and Policy PR11 and the Developer Contributions SPD.</p> <p>Directly Related – Yes</p> <p>Fairly and Reasonably related in scale and kind- Yes</p>
A public transport services contribution	£95,910 towards Public Transport Services	First Occupation or alternative agreed trigger	<p>Necessary – The contribution is necessary to provide sustainable transport options to the site and as part of the overall public transport provision</p> <p>Directly related – The proposal provides for residential which should be reasonably accessible via public transport modes to ensure occupiers have options to use sustainable modes of transport. It is therefore directly related to the development.</p> <p>Fairly and reasonably related in scale and kind – The level is at an established rate and based on number of dwellings.</p>
Public Transport Infrastructure	£34,395 towards new bus stops	First occupation or alternative agreed trigger	<p>Necessary – The contribution is necessary to provide sustainable transport options with the fitting of four bus shelters on the site.</p> <p>Directly related –</p>

			<p>The proposal provides for residential which should be reasonably accessible via public transport modes to ensure occupiers have options to use sustainable modes of transport. It is therefore directly related to the development.</p> <p>Fairly and reasonably related in scale and kind – The level is at an established rate and based on number of dwellings.</p>
Travel Plan Monitoring contribution towards the cost of monitoring the framework and individual travel plans over the life of the plans	£1,558	First occupation or alternative agreed trigger	<p>Necessary – The site will require a framework travel plan. The fee is required to cover OCCs costs of monitoring the travel plans over their life.</p> <p>Directly related - The contribution is directly related to the required travel plans that relate to this development. Monitoring of the travel plans is critical to ensure their implementation and effectiveness in promoting sustainable transport options.</p> <p>Fairly and reasonably related in scale and kind – The amount is based on standard charging scales which are in turn calculated based on the Officer time required at cost.</p>
Public Rights of Way	£12,280	First occupation or alternative agreed trigger	<p>Necessary - to allow the Countryside Access Team to plan and deliver improvements with third party landowners in a reasonable time</p>

			<p>period and under the Rights of Way Management Plan aims. The contribution would be spent on improvements to the public rights of way in the vicinity of the development – in the ‘impact’ area up to 3km from the site, predominantly to the east, south and north of the site. Primarily this is to improve the surfaces of all routes to take account of the likely increase in use by residents of the development as well as new or replacement structures like gates, bridges and seating, sub- surfacing and drainage to enable easier access, improved signing and protection measures such as anti-motorcycle barriers. New short links between existing rights of way would also be included.</p> <p>Directly related - Related to rights of way and improvements arising from the development to support public rights of way enhancement</p> <p>Fairly and reasonably related in scale and kind - Calculated on the basis of the impact arising from the development and the scale of the development</p>
Secondary Education	£676,438	The amount to be phased across the delivery of the scheme. 50% to be delivered on first occupation, 50% on 50% occupation or an	<p>Necessary – To address the complexity of planning secondary school provision equitably across all the PR sites, the approach taken is that credit for any existing surplus places in the Woodstock-Begbroke-Kidlington area</p>

		alternative agreed trigger with the County	<p>should be distributed across the PR sites in proportion to the number of dwellings allocated in the Local Plan. When the individual planning applications are assessed, the site's share of the surplus places will not be subject to secondary education contributions. A per-pupil cost rate will be applied to the remaining pupil generation. This cost will be based on the cost of building a new school in Begbroke of the scale needed to meet expected population growth, currently assumed to be 900-places. The scale of surplus capacity to be distributed across the PR sites has been assessed as a total of 200 places. PR7a has an allocation of 430 dwellings in the Local Plan, which is 10% of the total allocated dwellings. It therefore benefits from 20 of the surplus places. However the current application is for only part of PR7a, and proposes 96 dwellings, or 22% of the allocation. An application for the rest of PR7a (22/00747/OUT), with a total of 370 dwellings proposed. This brings the total of dwellings proposed to 466, 36 more than originally allocated. The spare place discount has been calculated using the original allocation, however, with 86% of the spare places being allocated to the larger site ($370/430 = 0.86$). This leaves 14% - or 3 spare places - to be offered to this site ($0.14 * 20 = 3$) The estimated gross secondary pupil generation from the current application is 22. Deducting the</p>
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			<p>remaining 3 surplus places, the estimated net secondary pupil generation from the current application is 19. The net pupil generation is charged at the per pupil cost of building a 900-place school on the Begbroke site, which is £35,602 excluding land (at BCIS TPI=327).</p> <p>Directly related – Related to the pupils generated by the development</p> <p>Fairly and reasonably related in scale and kind – Calculated on the basis of pupil yield and cost per pupil</p>
Secondary Education Land Costs	£61,030	The amount to be phased across the delivery of the scheme. 50% to be delivered on first occupation, 50% on 50% occupation or an alternative agreed trigger with the County	<p>Necessary – A contribution is also required towards secondary school site acquisition land costs, proportionate to Local Plan allocated dwelling numbers.</p> <p>Directly related – Related to the expected pupils generated by the development</p> <p>Fairly and reasonably related in scale and kind – Calculated on the basis of pupil yield and cost per pupil</p>
SEN Development	£53,845	The amount to be phased across the delivery of the scheme. 50% to be delivered	<p>Necessary – towards expansion of SEN school capacity is therefore sought based on the</p>

		on first occupation, 50% on 50% occupation or an alternative agreed trigger with the County Council	percentage of the pupil generation who would be expected to require places at a special school, based on pupil census data. (This amount of pupils has been deducted from the primary and secondary pupil generation). Directly related – Related to the expected pupils generated by the development Fairly and reasonably related in scale and kind – Calculated on the basis of pupil yield and cost per pupil
OCC Transport (final requests tbc)	<p>£238,411 towards the London-Oxford Mobility Hub</p> <p>£94,188 towards the Cycle Superhighway</p> <p>A contribution towards Cutteslowe Roundabout and Bicester Road Active Travel Enhancement - tbc</p> <p>£133,208 towards enhancement of Kidlington Roundabout</p> <p>£176,679 towards improvements of the bus lane improvements along Bicester Road to Kidlington Roundabout</p> <p>£28,346 to junctions the A4260/ A4165 corridor to improve bus movements</p>	The amount to be phased across the delivery of the scheme. 50% to be delivered on first occupation, 50% on 50% occupation or an alternative agreed trigger with the County Council	<p>Necessary – The highway improvements are identified through the work on the Transport Assessment and the works are identified in the Local Plan.</p> <p>Directly related – Identified in Appendix 4 of the Local Plan</p> <p>Fairly and reasonably related in scale and kind – The scale of the identified contributions are appropriate. Proportionate contributions would need to be identified towards the Travel Hub and Cycleway.</p>

	<p>£6,157 towards public realm enhancements on A4260</p> <p>£6,640 towards a Traffic Regulation Order amendment to Bicester Road</p>		
Open Space Maintenance	<p>Up to: Mature Trees: £280.04/tree New Woodland Maintenance 35.02/sq. m Hedgerow: £26.60/lin. m Attenuation Basin: £66.05/sq. m Swales: £120.32/lin. m Informal Open Space: £12.65/sq. m LAP/LEAP Combined: £179,549.95 LEAP/NEAP Combined: £540,048.31 MUGA: £73,215.11</p> <p>The above figures represent the whole development contribution however proportionate contributions would also be sought in combination with the southern half of the development under application reference 22/00747/OUT who would benefit from the formal play, open space and recreation facilities.</p>	On transfer of the landscaping/phased contribution payment	<p>Necessary – Policy BSC 11: Local Standards of Provision- Outdoor Recreation, Table 7: Local Standards of Provision - Outdoor Recreation If Informal open space/landscape typologies/ play areas are to be transferred to CDC for long term management and maintenance, the following commuted sums/rates covering a 15 year period will apply. The typologies are to be measured and multiplied by the rates to gain the totals.</p> <p>Directly related – Commuted sums/rates covering a 15 year period on open space and play facilities on site.</p> <p>Fairly and reasonably related in scale and kind – Contributions are sought in relation to the scale and amount of open space on site.</p>
Library Services	£10,354	On first occupation or alternative agreed trigger	<p>Necessary – This site is served by Kidlington Library but it is unable to accommodate such expansion. This development will</p>

			<p>nevertheless place increased pressure on the local library. Instead, to ensure Kidlington Library is able to provide for planned growth north of Oxford this library can be reconfigured with associated refurbishment to expand capacity within the existing footprint. The reconfiguration of the existing layout will be designed to make more efficient use of space by increasing shelving capacity; provide moveable shelving to allow for events and activities and, provide additional study space.</p> <p>Directly related – Kidlington Library is the nearest public library to the application site and is within walking distance of the site.</p> <p>Fairly and reasonably related in scale and kind – Contributions are sought in relation to the library facilities, the adopted standard for publicly available library floor space is 23m² per 1,000 head of population, and a further 19.5% space is required for support areas (staff workroom, etc.), totalling 27.5m² per 1,000 head of population. The forecast population for this site is 894 people. Based on this, the area of the library required is 24.6M2</p>
Waste and Recycling	£9,020	On first occupation or an alternative agreed trigger	<p>Necessary: Site capacity is assessed by comparing the number of visitors on site at any one time</p>

			<p>(as measured by traffic monitoring) to the available space. This analysis shows that all sites are currently 'over capacity' (meaning residents need to queue before they are able to deposit materials) at peak times, and many sites are nearing capacity during off peak times. The proposed development will provide 96 dwellings. If each household makes four trips per annum the development would impact on the already over capacity HWRCs by an additional 384 HWRC visits per year</p> <p>Directly Related: Will be towards providing waste services arising from the development</p> <p>Fairly and reasonably related in scale and kind Calculated on a per dwelling basis total land required for current dwellings (300,090) is 55,350 m², or 0.18m² per dwelling. This equate to a contribution of £93.96 per dwelling.</p>
Extension to the Cemetery	0.7ha hectares of land – details of drainage, contributions installation to pathways and connection to existing Cemetery and ongoing maintenance. Transfer to Kidlington Parish Council.	Appropriate timescale to be agreed	<p>Necessary: 0.7ha of land identified within Policy PR7a as part of the overall allocation</p> <p>Directly Related: Identified within the allocation policy PR7a</p> <p>Fairly and reasonably related in scale and kind</p>

			Level and detail is in accordance with the allocation.
Proportionate contributions to southern half of the allocation under 22/00747/OUT	Contributions towards open space, play provision and allotments as appropriate.	Appropriate timescale to be agreed	<p>Necessary: Ensure that the development provides and delivers all the onsite facilities proposed across the allocation.</p> <p>Directly Related: Facilities identified with the proposed masterplan and layout of both applications.</p> <p>Fairly and reasonably related in scale and kind Ensures that the proposal delivers all the onsite facilities proposed across the allocation in a fair and equitable manner.</p>
CDC and OCC Monitoring Fee	CDC: £5,000	On completion of the S106	The CDC charge is based upon its agreed Fees and Charges Schedule

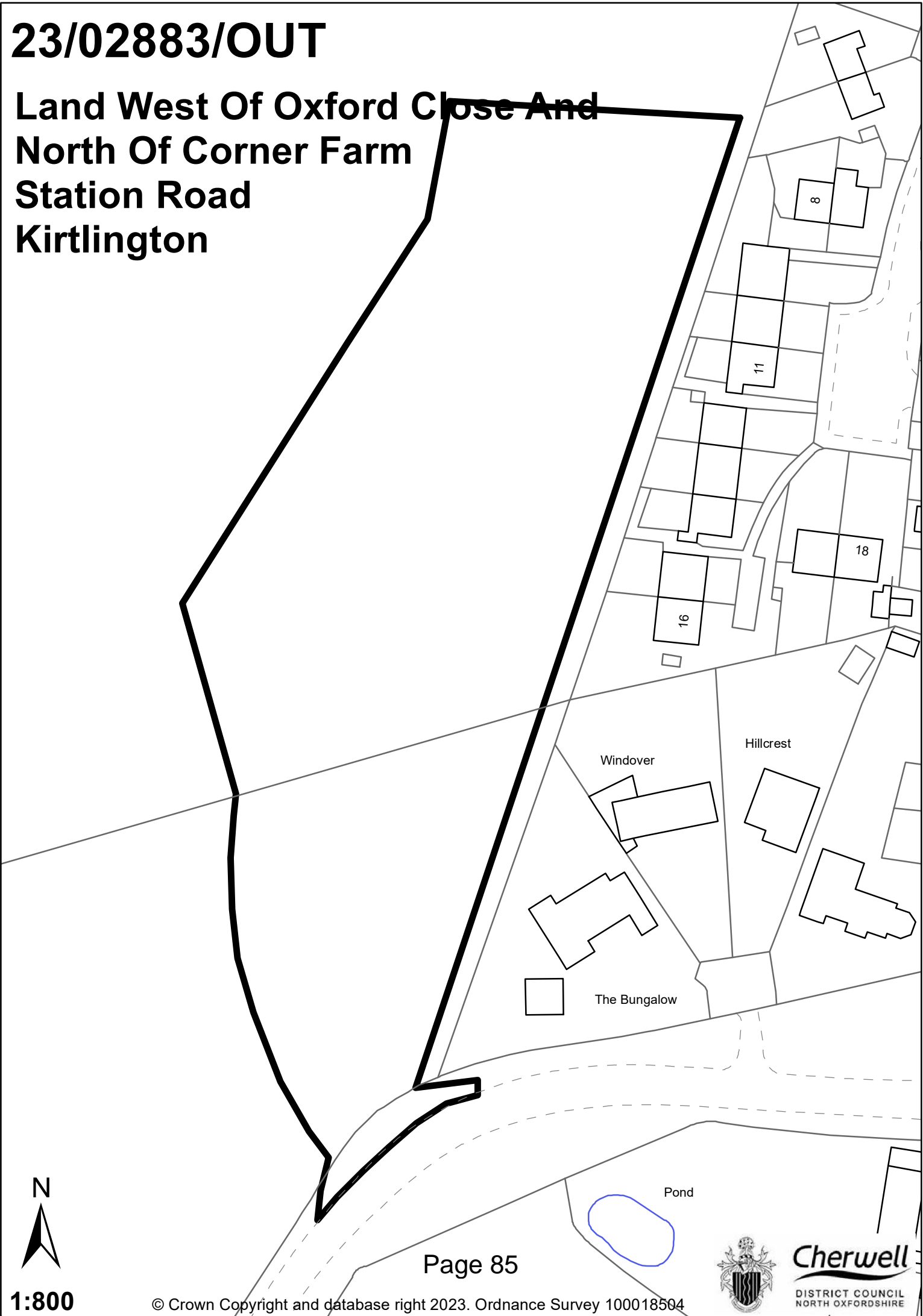
Land West Of Oxford Close And
North Of Corner Farm
Station Road
Kirtlington



1:1,300

23/02883/OUT

Land West Of Oxford Close And North Of Corner Farm Station Road Kirtlington

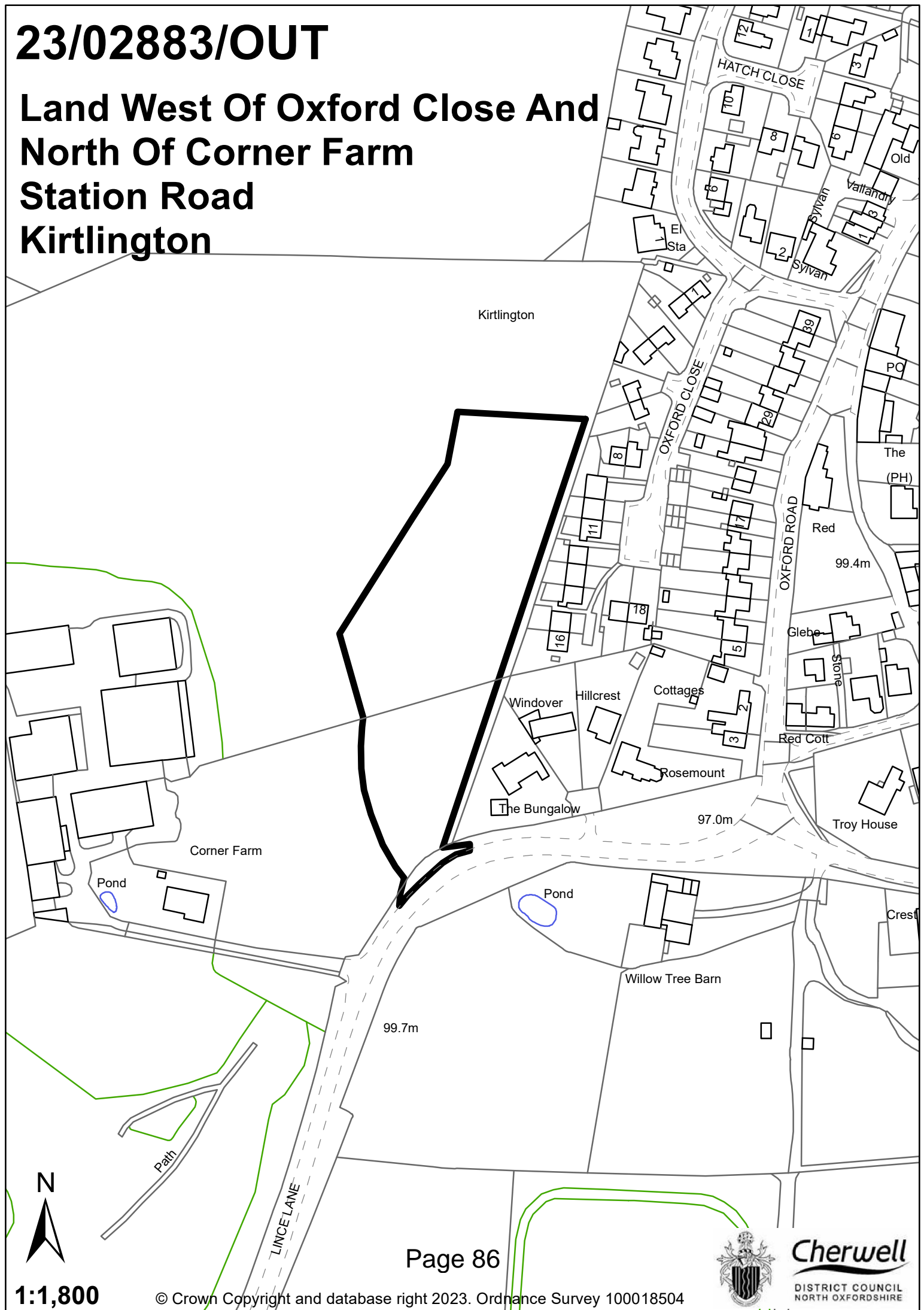


1:800



23/02883/OUT

Land West Of Oxford Close And North Of Corner Farm Station Road Kirtlington



1:1,800

Case Officer: Jeanette Davey

Applicant: Manorwood Consultancy Ltd

Proposal: Erection of 15 detached and semi-detached single and two-storey dwellings (including affordable housing) together with means of access - re-submission of 22/03049/OUT

Ward: Fringford And Heyfords

Councillors: Cllr. Patrick Clarke, Cllr. Nigel Simpson and Cllr. Barry Wood

Reason for Referral: Major development

Expiry Date: 21 November 2023

Committee Date: 7 December 2023

SUMMARY RECOMMENDATION: DELEGATE APPROVAL TO ASSISTANT DIRECTOR FOR PLANNING & DEVELOPMENT SUBJECT TO CONDITIONS AND LEGAL AGREEMENT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is approximately 0.9ha in area. It is currently in agricultural use as part of Corner Farm. To the east, the site adjoins the curtilage of dwellings at Oxford Close and Hatch Way, and two dwellings accessed directly from Lince Lane. A public right of way (PROW) runs between the proposed site and the adjoining dwellings, known locally as Woodstock Way. To the north and west is agricultural land forming part of Corner Farm and, beyond, Kirtlington Golf Club. To the south is the access point on a corner of the A4095, Lince Lane / Oxford Road, and grazing land in the fields opposite.
- 1.2. The A4095 crests a low ridge approximately 70metres to the south of the proposed access point. The site rises on the west side of the existing dwellings on Oxford Road and then falls away towards Corner Farm. It also has a gradual fall from north to south.
- 1.3. Cherwell Local Plan 2011-2031 2011-2031 Part 1 (CLP 2015) defines Kirtlington as a Category A Service Village. Proposals for development within the built-up limits of villages will be considered for minor development, infilling and conversions. The site is outside of the built-up limit of the village.
- 1.4. Cherwell Local Plan 2040 Regulation 18 Consultation Draft (CLP 2040) proposes that Kirtlington be defined as a Larger Village. This definition is material but carries no weight. Larger Villages are stated as having a more limited range of employment, services and facilities than Local Service Centres (Kidlington and Heyford Park) and Main Towns (Banbury and Bicester). Unplanned development will be limited to providing for local needs and to support employment, services and facilities within local communities.

- 1.5. Mid-Cherwell Neighbourhood Plan (MCNP) states that Kirtlington has a traditional, essentially linear, pattern, north-south. P34 states that the settlement plan, formally adopted by Kirtlington Parish Council in 2016, is limited on the eastern side by the listed historic park, while on the western side a well-defined boundary to the contemporary built area approximates closely the old Woodstock Way, which is clearly visible on 18th and 19th century maps.
- 1.6. MCNP also stated, at the time of publication (May 2019), that the school at Kirtlington was at full capacity with no physical space to expand as the playground was already at minimum size for the number of pupils. OCC Education envisaged bussing overflow to the school in the next village. Kirtlington's small shop was well-used and often had queues. The village hall was already booked every weekday evening and at most weekends. Since publication, the shop has closed. The Parish Council is proposing to replace it with a community shop and café at the village hall. The planning application for this proposal, ref 23/02523/F, was approved on 08.11.2023.

2. CONSTRAINTS

- 2.1. The application site has no specific designations or constraints other than the PROW adjoining, which links Lince Lane to Hatch Way. The agricultural land classification (ALC) is Grade 5, which is outside of the category of Best and Most Versatile Land.
- 2.2. SSSI Kirtlington Quarry is at approximately 370m as the crow flies from its nearest point to the application site.
- 2.3. Oxford Canal is at approximately 550m as the crow flies from its nearest point to the application site.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application is in outline, with all matters reserved except for means of access. This is due to an amendment to the scheme received 10.11.2023 which removed the layout from the application.
- 3.2. Access is proposed on the outside of a bend in the road, leading north into the village. Paragraphs 2.1-2.7 of the Technical Highway Note (TPA October 2023) proposes to relocate the existing speed limit change (which is from 50mph to 20mph) that is located directly south of the site access, to a position approximately 72m to the south of the access. It is also proposed to reduce the speed limit from 50mph to 40mph at a point a minimum of 600m south of the proposed access. The proposal also includes for the relocation of the village gateway to coincide with the newly positioned 20mph sign and for the introduction of a vehicle activated sign, activated by those exceeding the speed limit.
- 3.3. Tenure is defined within Paragraph 6.11 of the Planning, Design and Access Statement (PDAS) (JCPC August 2023) as including five dwellings for affordable housing. The mix and tenure of the units would be secured by a S106 obligation.
- 3.4. Layout, design, dwelling sizes, private amenity space, design and materials would be subject of a Reserved Matters application.
- 3.5. A small number of existing trees are on the east and south boundaries. Although the scheme is in outline, paragraph 6.29 of the PDAS proposes a soft transition between the settlement edge and the countryside.

4. RELEVANT PLANNING HISTORY

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

14/01531/OUT Non-determination appeal dismissed 27.08.2015

Demolition of the existing bungalow and agricultural buildings and residential development of up to 95 dwellings including highway works, landscaping and Public Open Space

14/02139/OUT Refused. Dismissed at appeal 12.05.2016

Demolition of existing bungalow and agricultural buildings and residential development of up to 75 dwellings including highway works, landscaping and public open space

- 4.2. The appeal 14/01531/OUT included the following from the Inspector:

Paragraph 12: *I cannot speculate what might happen in the future with regard to such matters as where housing may most be needed or the numbers that may be required, but the indications are that the provision of 95 homes in one location at this early stage of the Local Plan period would leave little scope for development in the other Category A villages either in terms of numbers or timing and thus would not be in accordance with the housing strategy for the villages.*

Paragraph 18: *The proposal would be extremely visible when entering the village from the south where the current field provides an open and rural approach to the built up area of the village... The expansion proposed, because of its depth, scale and housing with associated infrastructure, would result in an urban character to the outskirts of the village which would have an unacceptably harmful effect on the undeveloped landscape and the setting of the village.*

Paragraph 25: *The development and character of Kirtlington is reflected in the clustering of small numbers of buildings that have been erected at different times and gradually absorbed into the village. The proposed development, involving a large number of houses and residents at one time, would considerably exceed the threshold of incremental change and expansion...detrimental to the established character of the village.*

Paragraph 55: *...the Council is able to demonstrate a five year supply of deliverable housing sites.*

- 4.3. The application 14/02139/OUT had two reasons for refusal. The first is listed below. The second was in the absence of a satisfactory planning obligation:
- 4.4. *Notwithstanding the Council's present inability to demonstrate that it has a five year housing land supply as required by paragraph 47 of the National Planning Policy Framework, the development of this site as proposed cannot be justified on the basis of the land supply shortfall alone. The proposal constitutes development which by virtue of its scale, size and form fails to respect the traditional settlement pattern of Kirtlington, extending beyond its built up limits into the open countryside, resulting in an incongruous, unsustainable and inappropriate form of development which pays little regard to the traditional settlement pattern and which would relate poorly to the remainder of the Village, and cause demonstrable harm to the character of the Village and visual amenities of the immediate locality, contrary to Policies H18, C8, C27, C28 and C30 of the Adopted Cherwell Local Plan Policies ESD13 and ESD15 of the Submission Cherwell Local Plan and Central Government advice within the National Planning Policy Framework.*
- 4.5. Paragraph 50 of the appeal decision gave considerable weight to the conflict with the (*then*) local planning policy which sought to steer most new housing towards the main

towns in the District. It also gave considerable weight to the significant damage that would be caused to the character and appearance of the area and the rural setting of Kirtlington. In paragraph 46, the Inspector acknowledged that the appeal proposal was significantly different to that considered at appeal in 2015 and that a real effort had been made to improve the layout and form of the scheme with a view to mitigating the impact on the local area. However, he continued that the construction of up to 75 dwellings on the eastern part of the appeal site would substantially reduce the open nature of the field and suburbanise this edge of the village to an undesirable extent. He believed that the new development would appear prominent from local viewpoints, particularly during winter months, and cause unacceptable harm to the village's rural setting.

5. PRE-APPLICATION DISCUSSIONS

5.1. No pre-application discussions have taken place with regard to this proposal.

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 **13 October 2023**, although comments received after this date and before finalising this report have also been taken into account.

6.2. 42 responses have been received to neighbour notification and publicity: 33 objections, 8 support and 1 comment. The comments raised by third parties and technical consultees included those relating to layout. Most of these are not conveyed in this report due to the removal of this part of the application from the submission, but it has been appropriate to retain some concerns about the principle of a layout for this site. The comments are summarised as follows:

Objections - Past planning decisions

- Opposition by Government, planning authorities, County and Parish Councils for many years
- Previous attempts to develop with 125, 95, 75, 8 and now 15 houses show that the developer and landowners intend to deploy 'scope creep'
- The village has already grown considerably over the last 25 years
- The Neighbourhood Plan focuses on larger communities such as Bicester and Upper Heyford. There has already been considerable development in Bletchington

Objections - Impact on the settlement and neighbouring residential amenity

- Settlement boundary very clearly defined by Woodstock Way and MCNP states that this should be protected
- Lies outside settlement area
- The current site provides a positive contribution to the softening of the village edge
- The current boundary protects the linear form of the village
- The proposed development is not infilling and therefore should only be assessed on the criteria for minor development
- The proposal will have the same effect on the village and conservation area as the development has at Gossway, towards Bletchington
- Harm to the character and appearance of the village and the rural setting of Kirtlington, resulting in conflict with the CLP(2015)

- Infringement on privacy of the residents of Oxford Close, Station Road and Hatch Way
- Fails to protect an important view and vista in the MCNP
- Arbitrary site layout not defined by landscape features or plot boundaries
- No integration with the grain / character of the village and detached from the village core
- The development has no natural barriers or buffers, allowing for a further phase another day. The site is not contained.
- Siting turns its back on the village and fails to engage with the public realm
- Question the categorisation of the village as Category A in the CLP 2015
- The site is elevated approximately 1.5m higher than the gardens of neighbouring properties. The level difference will make the proposed dwellings become very overbearing.
- Hedgerow planting to overcome overlooking may result in a loss of light to existing dwellings. A full right to light assessment should be undertaken to address potential issues
- The perception of overlooking will be as harmful as actual overlooking
- No significant commitment to good design and quality in the submitted documentation
- Noise impact of the construction phase
- Blight on a pretty village
- Starting to merge with Bletchington
- The development would create a large swathe of uninterrupted housing on this side of the village without any significant space, amenity or vistas.

Objections - Highways and access

- Numerous accidents and cars crashing into stone walls of our neighbours shows how dangerous this bend is
- A reduction to 20mph has not reduced traffic accidents or improved road safety
- Significant traffic levels from early morning to early evening
- Traffic flow increases exponentially when the M40 or A34 are blocked
- Two known serious accidents in this location in 2009 and 2014
- Problems with access to Tackley Station
- Traffic monitoring referred to in supporting documentation is from 2019. Traffic levels in Kirtlington have increased significantly in the intervening years. HGV traffic has also increased.
- No pavements from the proposed development to the rest of the village
- The visibility splay does not take into account the incline of the road and the actual encroachment of existing hedgerows and planting
- Consideration should be given to a bypass, more chicanes, banning HGVs

Objections - Ecology

- Kirtlington Quarry is an SSSI, geological conservation review site and local nature reserve which is overrun by visitors and not up to additional foot traffic
- Loss of significant habitat for abundant wildlife
- The MCNP states that development should not be on the best and most versatile agricultural land; the site is prime agricultural land.

Objections - Infrastructure

- The sewer system is overrun thanks to overdevelopment
- No shop, post office due to close, schools and doctors limited, bus service and pub under threat
- The water supply for Bletchington is pumped from Kirtlington. Any additional supply requirements in Kirtlington will adversely affect Bletchington

- SuDS proposal will impact on existing dwellings set lower than the proposed development site
- Displacement of water from the development will be worse than that from the farmland

Objections - Housing and local employment supply

- Local young families will not benefit from the development
- The size of the proposal does not trigger affordable housing
- Cherwell has a 5.4 year housing supply, so additional housing is unnecessary
- Do we really need more new detached properties?
- If we are to keep Kirtlington as a vibrant village then it is important that younger people and young families can afford to live here
- The claim that employment is available at Enslow is spurious. There are no businesses readily recruiting in Enslow
- Development should be on brownfield land

Objections - Other

- Poorer air quality would result
- Short term construction traffic, noise and dust
- PROW would become an alley way and thus an undesirable area

Support – Woodstock Way PROW

- Disappointed that people keep saying that the village boundary is the old Woodstock Way. The footpath was diverted in the 1970s to make way for Hatch Way. I am not sure why it cannot be diverted again to make the footpath more accessible for everyone because it is not used now.

Support – Housing supply

- The most suitable for further development that Kirtlington has to find
- Would provide housing for my adult child who would like to live in the village
- An offer of a variety of house sizes is a positive step
- We have received very few new housing options bar five new houses (with the demolition of one) on Heyford Road. This has significantly inflated property prices, transforming the village into an enclave predominantly for the affluent
- It's rare to see houses for sale in the village

Support – Highways

- Traffic generated would be mostly out of the village and not through it

Support – Infrastructure

- The school is looking for more pupils
- Helps to maintain existing services, eg the pub and shop

Support – Impact on the settlement

- Development would be barely visible in the village
- Development would prevent building in the Park and along Mill Lane that would be far more damaging to the village environment

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

7. RESPONSE TO CONSULTATION

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

PARISH COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. KIRTLINGTON PARISH COUNCIL (summary): **Object.** KPC considers any development at Corner Farm would lead to harm to the village, and whilst revision to the scheme to add social housing is welcomed, this should not be at the expense of housing density. The housing density proposed is now too high and out of keeping with adjacent development. Summary of objections includes:

- Breach of a long-established settlement pattern, defined by PROW Woodstock Way. This, together with the proposed layout, would set a precedent for future development. KPC does not wish to see a return of the previous inappropriate applications for very large-scale developments from national developers.
- Unsatisfactory access with an inability to achieve sight lines due to the sharp bend and gradients in the road.
- Unsatisfactory pedestrian access both onto the A4095 and onto the PROW, including detrimental impact for walkers' amenity where trapped between boundary fences.
- Significant landscape and visual impacts, being on high ground and visibly prominent when entering the village. Conflicts with the Inspector from the 2015 appeal who considered that the site makes an important contribution to the pleasant rural setting on the southern part of Kirtlington.
- Poor integration with the village, with the potential for the development to form an isolated enclave.
- Shortcomings due to being an outline application.
- Sustainability is called into question due to the reducing bus service, and the inability of the foul sewage system to cope. This calls into question to proposed categorisation of Kirtlington as one of the eleven larger villages in the emerging Local Plan.

- 7.3. MID CHERWELL NEIGHBOURHOOD PLAN FORUM (summary): **Object.**

- Conflict with Policy PD1(c) because the proposal would not enhance the western edge of the village adjoining open countryside.
- Conflict with Policy PD4 because the proposal would destroy the view across the wooded Cherwell Valley from the PROW.
- A forthcoming review of the MCNP considers this site to be unsuitable and that it should not be allocated for housing. The conclusions regarding Corner Farm follow many months of analysis. It would be inappropriate for the Council to approve this application at this stage.

Officer Note: A draft set of reports and assessments has been made public from 13 November 2023 on the following website: <https://kirtlingtonvillage.co.uk/mid-cherwell-neighbourhood-plan-report-2023>. That specifically relating to this site is at <https://kirtlingtonvillage.co.uk/wp-content/uploads/2023/11/KIRTLINGTON-SITE-ASSESSMENT-KT1.pdf>

CONSULTEES

- 7.4. OCC HIGHWAYS (summary): **No objection** subject to S106 contributions, an obligation to enter into a S278 agreement, the imposition of planning conditions and informatives.

A further technical note has been provided, TN03, which includes a Road Safety Audit Stage 1. I am satisfied that the mitigation proposed would provide additional mitigation to ensure compliance with the speed limit on the approach to the proposed access.

- 7.5. CDC PLANNING POLICY (summary): **Objection.** *Kirtlington is one of the more sustainable villages in the District and Policy Villages 2 does make provision for some development in such villages. However, there is no pressing need for additional housing at the present time.*

The application site, if developed, will extend the current built up limits of Kirtlington into open countryside. The site is not allocated for development in the development plan. The proposals are therefore contrary to saved policies C8 and H18.

The Council is currently undertaking a review of the adopted Cherwell Local Plan 2011-2031 (Part 1) which will cover the period to 2040. This plan and any future reviews to Mid Cherwell Neighbourhood Plan is the appropriate context for identifying the quantum and location of future residential development in the rural areas.

- 7.6. CDC HOUSING STRATEGY (summary): **Supports the proposal in principle.** Details given, including of type and tenure.
- 7.7. CDC ENVIRONMENTAL PROTECTION (summary): **No objection**, subject to conditions.
- 7.8. OCC LOCAL LEAD FLOOD AUTHORITY (summary): **No objection** subject to conditions.
- 7.9. OCC EDUCATION AUTHORITY (summary): **No objection** subject to S106 contributions.
- 7.10. OCC ARCHAEOLOGY (summary): **No objection.** No invasive impact upon any known archaeological sites or features and no archaeological constraints to this scheme, based on an evaluation carried out in 2014.
- 7.11. OCC WASTE MANAGEMENT (summary): **No objection** subject to S106 contributions. At the reserved matters application stage, we expect to see plans for how the developer will design the development in accordance with waste management policies in Cherwell District Council's waste planning guidance. Bin storage areas must be able to accommodate the correct number of mixed recycling, refuse and food recycling bins; be safe and easy to use for residents and waste collection crews and meet the requirements of the waste collection authority.
- 7.12. THAMES VALLEY POLICE (summary): **No objection.** *I strongly encourage the applicant to consult the guidance provided by Secured By Design, and use the principles contained within the design guides to inform the design of the development, designing out crime from the outset. The principles of CPTED should be incorporated throughout the scheme. The guides for homes, schools and commercial areas can be found here: <https://www.securedbydesign.com/guidance/design-guides>. I highlight to the applicant that Thames Valley Police will seek to secure a condition requiring Secured by Design accreditation on the development hereby proposed. The response proceeds to comment on the details of the layout as originally submitted.*

- 7.13. CDC ECOLOGY (in full): The applicants have submitted an ecological appraisal which demonstrates there are few protected and priority species issues on site. They state intention to join the GCN district licence scheme which would be appropriate here.

Response to original application, including layout: *Currently I object to the application on the basis of insufficient information. The Ecological Appraisal refers to a Biodiversity Impact Assessment having been done however this has not been submitted, neither has any supporting information demonstrating how the biodiversity units have been calculated. We do not know the proposed condition of habitats created or retained on site. There is no demonstration of how an overall biodiversity net gain (and CDC seeks a minimum of 10%) will be achieved. We do not even know the % loss that the application will entail as it is just referred to as 'moderate'.*

We do not yet accept statements of financial contributions for 'habitat credits' where the location and habitat type of the off-set is not clearly demonstrated.

Second response: *The outline stage of an application is often the only time that the site is looked at holistically. It is usual to submit an illustrative masterplan showing how the required elements for the proposals and biodiversity could be accommodated. Whilst they have offered an overview of BNG within the Ecological Appraisal and it is stated that there will be an overall biodiversity 'loss' on site, I do think that we should be given some idea of the level of loss proposed and the potential number of units required off-site. As it seems from the Ecological Appraisal that they have carried out a metric, I would recommend that they submit this as an illustration. We will, however, need to condition the need for a full updated metric and details of how they will achieve at least a 10% net gain for biodiversity with any reserved matters applications. This is in addition to conditions for a LEMP, CEMP for biodiversity, great crested newt condition and lighting strategy.*

- 7.14. CDC LANDSCAPE (summary):

PDAS: There is no mention of onsite play provision or any layout that indicates a LAP in this document. This is a requirement in accordance with current Cherwell Plan Policy BSC 11. Furthermore, the existing PRoW (270/10/30) is not part of the open space scheme: with the current proposals the route will be hemmed in by close boarded fencing which makes the experiences for the visual receptor/walker quite oppressive/bleak. Paragraphs 6.28 to 6.31 should address these concerns about the LAP and PRoW.

Landscape Appraisal (LA): Although a comprehensive LA in accordance with GLVIA3 the policy context and justification has been omitted. Relevant policies should be addressed. Although deemed to be 'flat' the description of the topography does not include contour lines to allow us to assess the difference in height from one end of the site to another.

In respect of the Viewpoints (VP) 2 and 3 I agree that the Significance of Effect is going to be Major Moderate adverse for the visual receptor/walker, but this effect could be improved with proper consideration of the location of the PRoW by relocating the PRoW to the western 'open space corridor' and reconfiguring plot 8 to ensure there is sufficient space to traverse the route without privacy issues for the resident.

I agree that all chosen VPs are representative of the visual receptor experience, and also agree with the weighting afforded to them in respect of Magnitude of Change and Significance of Effect.

The site is overlooked by residences of Oxford Close and Oxford Road. These residential receptors will require trees in the proposed rear gardens of the plots. They will provide both visual mitigation and amenity for residential receptors offsite.

The site is visually influenced in a detrimental way by the proximity of the unattractive farm buildings. New residents and users of the open space will benefit from the screening provided by the new hedgerow and native trees to the western site boundary.

The landscape character and sensitivity assessment / weighting indicates that the site can accommodate 15 dwellings and road infrastructure with the appropriate degree of open space, play area, PRoW with native hedgerow, trees, and wildflower meadow. All typologies managed and maintained in accordance with an approved landscape and ecology management plan – to be submitted.

In addition to the LAP there will be a requirement for open space/green space provision.

Open Space Typologies and Commuted Sums: If Informal open space/landscape typologies / play areas are to be transferred to CDC for long term management and maintenance, commuted sums/rates covering a 15 year landscape maintenance will apply.

- 7.15. CDC CONSERVATION (summary): Although the site lies outside of the conservation area the relationship between the site and the conservation area (primarily in how the conservation area is experienced in the landscape as you approach along Station Road) is to be taken into account when assessing the potential impact on heritage assets. It is important to note that the more modern development that exists is considered to provide a buffer between the development site and the conservation area. Furthermore, it is considered that the conservation area is not experienced until you fully enter the village and pass the housing to the north of Station Road. Therefore, the direct setting and approach to the conservation area from this direction is not considered to be harmfully altered by proposed development on this site.

With regards to the potential impact to the Listed buildings located within the village; these buildings are located within the existing built form and are considered to be at such a distance from the development site that they will not be affected by the proposed development.

It is recognised that this application is an outline application, therefore the plans are somewhat indicative at this stage. However, there are aspects of the proposals that would need to be carefully considered at the reserved matters stage, these include: the treatment of the access from Station Road, the boundary treatments, landscaping, design, and materials used. These details will be key to ensuring a positive form of development. The spaces need to be carefully designed to retain openness and ensure that the conservation area is not impacted as a result of development within its setting.

It is acknowledged that the proposed development would result in changes to the landscape immediately surrounding Kirtlington, and this may be harmful in landscape and settlement character terms, but this does not necessarily equate to harm to significance of the heritage assets through development within their setting. The proposed development of this site is not considered to reduce the ability to appreciate what is special about the heritage assets.

Overall, in heritage terms the proposal is not considered to result in harm to the significance of the heritage assets through development within their setting.

- 7.16. CDC LEGAL SERVICES RIGHTS OF WAY (summary): **No objection.** No PROW are directly affected by this proposal and there are no proposed diversions required.
- 7.17. CDC RECREATION AND LEISURE (summary): **No objection** subject to the provision of S106 contributions.
- 7.18. CDC BUILDING CONTROL (summary): **No objection.** Building Regulations application required, including EV charging for each dwelling.
- 7.19. CDC LAND DRAINAGE (summary): **No comments.**
- 7.20. THAMES WATER (summary): **No objection.** On the basis of information provided, Thames Water would advise that with regard to water network and water treatment infrastructure capacity, we would not have any objection to the above planning application.
- 7.21. CPRE: No response received.
- 7.22. CLINICAL COMMISSIONING GROUP (BOBCIS): No response received.
- 7.23. CDC ARBORICULTURE: No response received.
- 7.24. CDC WASTE AND RECYCLING: No response received.
- 7.25. CDC ECONOMIC GROWTH: No response received.
- 7.26. CDC PUBLIC ART: No response received.
- 7.27. SOUTHERN GAS NETWORK: No response received.

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 2015)

- PSD1 - Presumption in Favour of Sustainable Development
- BSC1 - District-Wide Housing Distribution
- BSC3 - Affordable Housing
- BSC4 - Housing Mix
- BSC10 - Open Space, Outdoor Sport & Recreation Provision
- BSC11 - Local Standards of Provision - Outdoor Recreation
- BSC12 - Indoor Sport, Recreation and Community Facilities
- ESD1 - Mitigating and Adapting to Climate Change
- ESD3 - Sustainable Construction
- ESD5 - Renewable Energy
- ESD6 - Sustainable Flood Risk Management
- ESD7 - Sustainable Drainage Systems (SuDS)
- ESD8 - Water Resources

- ESD10 - Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 - Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment
- ESD17 - Green Infrastructure
- SLE4 - Improved Transport and Connections
- INF1 - Infrastructure
- Villages 1 - Village Categorisation
- Villages 2 - Distributing Growth across the Rural Areas
- Villages 4 - Meeting the Need for Open Space, Sport and Recreation

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

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

MID-CHERWELL NEIGHBOURHOOD PLAN 2018-2031

8.3. Under Section 38 of the Planning and Compulsory Purchase Act 2004, a Neighbourhood Plan that has been approved at referendum also forms part of the statutory development plan for the area. In this case, the application site falls within the Mid Cherwell Neighbourhood Plan and the following Policies of the Neighbourhood Plan are considered relevant:

- PD1 - Development at Category A Villages
- PD4 - Protection of important views and vistas
- PD5 - Building and site design
- PD6 - Control of light pollution
- PH1 - Open housing market schemes
- PH3 - Adaptable housing
- PH5 - Parking, garaging and waste storage provision

8.4. Other Material Planning Considerations

- The Planning (Listed Buildings and Conservation Areas) Act 1990
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- UK Police Service - Secured by Design Development Guides
- CDC Countryside Design Summary SPD
- CDC Residential Design Guide SPD
- CDC Developer Contributions SPD
- Cherwell Community Planning Partnership Sustainable Community Strategy
- DfT and DCMS Manual for Streets
- OCC Parking Standards for New Development
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 ("HRA")
- Equalities Act 2010 ("EA")

9. APPRAISAL

- 9.1. The key issues for consideration in this case are:
- Principle of development
 - Impact on the character of the area
 - Residential amenity for adjoining neighbours
 - Highway safety and public transport
 - Flood risk and drainage
 - Ecology impact
 - Affordable housing
 - Sustainable construction and energy efficiency
 - Noise, Contamination and Air Quality
 - Impact on Local Infrastructure

Principle of Development

Policy Context

Development Plan

- 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 this area comprises the adopted Cherwell Local Plan 2011-2031 Part 1 (CLP 2015) and the saved policies of the Cherwell Local Plan 1996 (CLP 1996).
- 9.3. Policy PSD1 of the CLP 2015 states that when considering development proposals, the Council will take a proactive approach to reflect the presumption in favour of sustainable development contained in the National Planning Policy Framework (NPPF). The policy continues by stating that planning applications that accord with the policies in this Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise. Paragraph B88 of the CLP 2015 also highlights that by focusing development in and around the towns of Bicester and Banbury we aim to ensure that the housing growth which the District needs only takes place in the locations that are most sustainable and most capable of absorbing this new growth.
- 9.4. In terms of affordable housing provision Policy BSC3 of the CLP 2015 states that 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. The Policy continues by stating that should the promoters of development consider that individual proposals would be unviable with the above requirements, 'open-book' financial analysis of proposed developments will be expected so that an in-house economic viability assessment can be undertaken. Where it is agreed that an external economic viability assessment is required, the cost shall be met by the promoter. Where development is demonstrated to be unviable with the above requirements, further negotiations will take place. These negotiations will include consideration of: the mix and type of housing, the split between social rented and intermediate housing, the availability of social housing grant/funding and the percentage of affordable housing to be provided.
- 9.5. Policy BSC1 of the CLP 2015 states that Cherwell District will deliver a wide choice of high-quality homes by providing for 22,840 additional dwellings between 1 April 2011 and 31 March 2031. 1,106 completions were recorded between 2011 and 2014 leaving 21,734 homes to be provided between 2014 and 2031.

- 9.6. Policy BSC4 of the CLP 2015, which covers the issue of providing housing mix on new development, states that new residential development will be expected to provide a mix of homes to meet current and expected future requirements in the interests of meeting housing need and creating socially mixed and inclusive communities.
- 9.7. The CLP 2015 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. In February 2023 Cherwell District Council approved a review of their adopted planning policies carried out under regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012. This review concluded that, due to the publication of more recent evidence on Housing Needs to support the preparation of the Cherwell Local Plan Review 2040, policies including Policy BSC1 are “out of date”. Paragraph 74 and footnote 39 of the NPPF requires that in such circumstances the 5 Year supply of land should be calculated using the government’s standard methodology.
- 9.9. The use of the standard method has the effect of reducing the annualised requirement from 1,142 dpa to 742 dpa for the purposes of calculating the land supply and consequently Cherwell District Council is able to demonstrate a 5.4 year supply.
- 9.10. The Council’s housing supply position of 5.4 years means that the relevant development plan policies are up to date and that development proposals must be assessed in accordance with the Development Plan. Whilst the NPPF states the requirement to have a 5-year supply is not a cap on development, the housing policies of the Development Plan are the starting point for decision taking and are afforded full weight. However, the delivery of homes across the district remains an important material consideration in the planning balance.
- 9.11. In terms of Category A villages, the 2021 AMR shows that 749 dwellings are either completed or under construction on sites with planning permission for 10+ dwellings at Category A villages. During 2020/21 there were 88 dwellings completed at Category A villages that contribute to the Policy Villages 2 requirement of 750 dwellings. There are also 246 dwellings that are under construction from the supply of permitted sites and are likely to be delivered in the short term. Between 1 April 2014 and 31 March 2021 there were a total of 503 net housing completions on the Policy Villages 2 sites which is an average of 71 homes per year. The AMR continues by highlighting that Since 1 April 2014 a total of 1,062 dwellings have been identified for Page 163 meeting the Policy Villages 2 requirement of 750 dwellings. These are included in the Housing Delivery Monitor in Appendix 2. Policy Villages 2 requirement has already been exceeded by 312 dwellings when considering the planning permissions and identified sites without planning permission in the above (749+287+26).
- 9.12. On the 31st of March 2022, there were at least 916 dwellings either completed or under construction on sites with planning permission for 10+ dwellings at Category A villages, comprising 706 dwellings completed and at least 210 under construction. During 2021/22 there were 203 dwellings completed at Category A villages that contribute to the PV2 requirement of 750 dwellings. There are permissions for a further 161 dwellings on 6no sites that, on the 31st of March 2022, had yet to commence construction.

- 9.13. Section E of the CLP 2015 concerns the monitoring and delivery of the Local Plan. Paragraph E.19 states that if the supply of deliverable housing land drops to five years or below and where the Council is unable to rectify this within the next monitoring year there may be a need for the early release of sites identified within this strategy or the release of additional land. This will be informed by annual reviews of the Strategic Housing Land Availability. In this instance the most recent published review undertaken by the Council is the Housing & Economic Land Availability Assessment (HELAA) (February 2018). This application site was not reviewed in the HELAA and therefore not considered.
- 9.14. Policy Villages 1 of the CLP 2015 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. Kirtlington is a Category A village.
- 9.15. In order to meet the area's housing needs, Policy Villages 2 of the CLP 2015 states that a total of 750 homes will be delivered at Category A villages. This will be in addition to the rural allowance for small site 'windfalls' and planning permissions for 10 or more dwellings as at 31 March 2014. This Policy notes that sites will be identified through the preparation of the Local Plan Part 2, through the preparation of the Neighbourhood Plan where applicable, and through the determination of applications for planning permission.
- 9.16. Policy Villages 2 continues by setting out that when identifying and considering sites, particular regard will be given to the following criteria:
- Whether the land has been previously developed land or is of less environmental value
 - Whether significant adverse impact on heritage and wildlife assets could be avoided
 - Whether development would contribute in enhancing the built environment
 - Whether best and most versatile agricultural land could be avoided
 - Whether significant adverse landscape impacts could be avoided
 - Whether satisfactory vehicular and pedestrian access/egress could be provided
 - Whether the site is well located to services and facilities
 - Whether necessary infrastructure could be provided
 - Whether land considered for allocation is deliverable now or whether there is a reasonable prospect that it could be developed within the plan period
 - Whether land the subject of an application for planning permission could be delivered within the next five years; and
 - Whether development would have an adverse impact on flood risk.
- 9.17. Policy PD1 of the Mid-Cherwell Neighbourhood Plan (MCNP) states that in Category A Villages such as Kirtlington, infill, conversion and minor development will be supported in principle within the settlement limits (as defined in the Neighbourhood Plan). It states that residential development proposals outside the settlement areas in such villages must have regard to the following criteria:
- Be immediately adjacent to the village
 - Not be best and most versatile agricultural land and previously developed land is particularly likely to be acceptable
 - Conserve and, wherever possible, enhance the landscape
 - Conserve and, where possible, enhance heritage assets
 - Not give rise to coalescence with other nearby settlements

9.18. Policy PD1 of the MCNP goes onto state that the *'total indicative number of additional dwellings permitted during the plan period either within the settlement area of those villages, or adjacent to them, shall be approximately 17 for Kirtlington.*

Comments made by the MCNP Forum

9.19. The MCNP Forum state in their response to consultation that it would be inappropriate to refuse this application in the knowledge that the emerging NP Review is undertaking assessments of all eligible sites in Kirtlington and that it does not support development on this site.

9.20. The PPG on Neighbourhood Planning (updated 2020) states, at Paragraph 106, that there are three types of modification which can be made to a neighbourhood plan. The process will depend on the degree of change which the modification involves:

- *Minor (non-material), which may include correcting errors.*
- *Material modifications which do not change the nature of the plan would require examination but not a referendum. This might, for example, entail the addition of a design code that builds on a pre-existing design policy, or the addition of a site or sites which, subject to the decision of an independent examiner, are not so significant or substantial as to change the nature of the plan.*
- *Material modifications which do change the nature of the plan would require examination and a referendum. This might, for example, involve allocating significant new sites for development.*

9.21. Paragraph 86 of the PPG confirms that whether the modifications change the nature of the plan is a decision for the independent examiner. The Examiner considers representations and statements made including, inter alia, by the local planning authority. The MCNP Forum's proposal to declare their preferred location for development of the 17 dwellings appears to be a material modification which changes the nature of the plan because it involves the allocation of a significant new site for development. That change is considered to be significant because it is for the majority of the allocation proposed for Kirtlington.

9.22. Paragraph 50 of the NPPF states that *Refusal of planning permission on grounds of prematurity will seldom be justified... – in the case of a neighbourhood plan – before the end of the local planning authority publicity period on the draft plan. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process.*

9.23. The Planning Policy Team has advised that they would not expect the end of the Local Planning Authority publicity period to be until at least July 2024. As such, the Council has no alternative but to give the following responses to the two requests of the MCNP Forum:

- To delay a decision cannot be granted because it would conflict with Paragraph 50 of the NPPF. The application has been submitted for determination and the LPA is obliged to do so in a timely manner.
- To give preference to this site does not have a legitimacy in the democratic process and the preference of the MCNP Forum has to be disregarded.

Assessment

9.24. Policy Villages 1 of the CLP 2015 designates Kirtlington as a 'service village' where minor development, infilling and conversions are permissible. Supporting text to the

policy states that infilling refers to the development of a small gap in an otherwise continuous built-up frontage. Under such a definition the proposal would not constitute infilling. Further supporting text states that in assessing whether proposals constitute acceptable 'minor development', regard will be given to the size of the village and the level of service provision, the site's context within the existing built environment, whether it is in keeping with the character and form of the village, its local landscape setting and careful consideration of the appropriate scale of development.

- 9.25. The site is outside of the village envelope / boundary as defined in the MCNP.
- 9.26. Kirtlington is identified in the CLP 2015 as a sustainable location for meeting defined housing requirements – one of 23 Category A villages intended to provide 750 homes from 2014 to 2031 (Policy Villages 2). The Local Plan reached that conclusion having undertaken a comparative assessment and categorisation of all the district's villages.
- 9.27. The requirement of Policy Villages 2 to provide 750 homes at Category A villages is monitored in the Council's AMR. Table 39 of the AMR shows that, on 31st March 2021, 749 dwellings had either been completed or were under construction on sites with planning permission. Para. 5.159 of the AMR records that between 1 April 2014 and 31 March 2021 a total of 1,062 dwellings have been identified for meeting the Policy Villages 2 requirement of 750 dwellings.
- 9.28. On the 31st March 2022, there were at least 916 dwellings either completed or under construction on sites with planning permission for 10+ dwellings at Category A villages, comprising 706 dwellings completed and at least 210 under construction, and there are now at least 1,077 dwellings that have been identified for meeting the PV2 requirement.
- 9.29. The Tappers Farm (Bodicote) 2019 appeal decision (which applied the same logic as the Launton appeal decision a year earlier) provides a useful steer as to how the decision taker should apply Policy Villages 2. At the time of the Tappers Farm decision, 271 dwellings had been delivered at Category A villages under Policy Villages 2, with a further 425 under construction. The Tappers Farm Inspector stated, *"There will undoubtedly be a point where there will be a situation that will result in the material increase over the 750 dwellings figure and at that time there will be some planning harm arising from the figure being exceeded, for example harm to the overall locational strategy of new housing in the district. There is no substantive evidence before me to demonstrate that this is the case in this appeal. Clearly, when considering any subsequent schemes however, this matter will need to be carefully scrutinised."*
- 9.30. As noted above, as of 31 March 2022, 706 dwellings had been delivered at Category A villages under PV2 and at least a further 210 dwellings were under construction, with another 161 with the benefit of planning permission that has not started. Given these numbers and the trajectory of annual completions including 203 completed in 2021-22, it is highly likely that the total number of dwellings delivered under Policy Villages 2 has now exceeded the 750 set out in the policy.
- 9.31. The total of 750 will by now have been met is a material consideration when assessing further applications for 'major' developments at Category A villages. However, the provision of housing represents a significant positive material consideration to weigh in the planning balance and contributes to meeting the overall district housing figures which is needed to be delivered.
- 9.32. The proposal would provide a mix of residential units in terms of size, type and tenure, and the proposal thus complies with Policy BSC4 of the CLP 2015.

- 9.33. Returning to the MCNP, Policy PD1 identifies an indicative level of growth for Kirtlington over the plan period which is a potential conflict between PD1 and Policy Villages 2 of the CLP 2015.
- 9.34. Planning Practice Guidance (PPG) and Section 38(5) of the Planning and Compulsory Purchase Act 2004 states that, where policy in a development plan for an area conflicts with another policy in the development plan, the conflict should be resolved in favour of the policy which is contained in the last document to be adopted, approved or published. In this case this would be the MCNP. Therefore, MCNP Policy PD1 is considered to take precedent over Policy Villages 2 – although the criteria of Policy Villages 2 are still considered to be relevant to the consideration of the application.
- 9.35. Several concerns have been raised by neighbours over the general sustainability of village. The village of Kirtlington has relatively limited services and facilities. There is also limited public transport to and from the village resulting in residents being highly reliant on the private car. Whilst these concerns are valid, the MCNP clearly indicates a level of growth for the village and, as outlined above, the proposal is considered to accord with the MCNP's housing strategy. There has been no significant change in services to the village since the adoption of the MCNP which would justify taking a different position on this issue.
- 9.36. The basis of the planning system is plan-led and therefore the aforesaid concerns regarding the general sustainability of the village do not outweigh the provision of the MCNP in regard to the scale of growth appropriate for the village. It should also be noted that the proposed development is likely to help support the existing services and facilities in the village to some extent, although that is hard to quantify.
- 9.37. Policy PD1 goes onto provide several criteria to which applications for development outside the settlement must have particular regard. It is important to note that the policy has no requirement for all these criteria to be met although they clearly are material considerations in undertaking the planning balance. These include:
- The site should be immediately adjacent to the settlement area
 - The site should not be the best and most versatile agricultural land (BMV)
 - The development should conserve and, where possible, enhance the landscape
- 9.38. The proposal complies with the first two criteria, including being on Grade 5 BMV land, but conflicts with the third. The issues relating to landscape impact are outlined elsewhere in this report and need to be considered in the planning balance.

Conclusion

- 9.39. The most relevant policy to consider the principle of the application against is Policy PD1 of the MCNP. The scale of growth complies with Policy PD1 and therefore accords with the growth strategy outlined in the Neighbourhood Plan. Subject to other material considerations, the principle of this level of growth at Kirtlington is therefore considered to be acceptable.

Impact on the character of the area

Policy context

- 9.40. Paragraph 170 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment, recognising the intrinsic character and beauty of the countryside.

- 9.41. Paragraph 127 of the NPPF states that planning decisions should ensure that developments (*inter alia*):
- *Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
 - *Are visually attractive as a result of... appropriate and effective landscaping;*
 - *Are sympathetic to local character... including the surrounding built environment and landscape setting*
 - *Establish or maintain a strong sense of place*
- 9.42. Policy ESD15 of the Cherwell Local Plan Part 1 states that: “*New development proposals should:*
- *Contribute positively to an area’s character and identity by creating or reinforcing local distinctiveness and respecting local topography, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views.*
 - *Respect the traditional pattern routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly defined active public frontages.”*
- 9.43. Policy ESD13 of the Cherwell Local Plan Part 1 states that: *Development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not be permitted if they would:*
- *Cause undue visual intrusion into the open countryside;*
 - *Cause undue harm to important natural landscape features and topography;*
 - *Be inconsistent with local character;*
 - *Harm the setting of settlements, buildings, structures or other landmark features;*
 - *Harm the historic value of the landscape.*
- 9.44. Policy Villages 2 also states regard will be had to whether significant adverse landscape impacts can be avoided in determining applications under that policy.
- 9.45. Saved Policy C8 of the Cherwell Local Plan 1996 seeks to limit sporadic development beyond the built limits of settlements.
- 9.46. The Cherwell Residential Guide SPD (2018) builds on the above policies and provides a framework to deliver high quality locally distinctive development.
- 9.47. Policy PD5 of the MCNP states that new development is required to be of high quality and reflect the guidance and principles set out in the Heritage and Character Assessment accompanying the Neighbourhood Plan. It goes on to state proposals should include appropriate landscape measures to mitigate impacts and be in keeping with the rural character of the village.

Appraisal

- 9.48. Objectors to the scheme refer to past applications which were dismissed at appeal by the Planning Inspectorate and that there should be a consistency of decision-making. The previous two applications were for significantly more dwellings and thus the impact of those versus the current scheme on the character of the area cannot be directly compared.

- 9.49. Many neighbour objections refer to the need to maintain the historic alignment of the PROW Woodstock Way as the village boundary. A response from one neighbour advises that the PROW was re-aligned in the 1970s to accommodate the developments at Hatch Way and Oxford Close. The 1:25,000 OS map series for 1937-1961 pre-dates the development of Hatch Way and Oxford Close in Kirtlington. The neighbour response is correct, because the alignment was inside the field boundary prior to their development and has now moved to outside of it. However, the change in alignment is acknowledged as minor and the principle of a breach of that line would occur to an extent far more significant than that for the previous development upon the line of the footpath.
- 9.50. This is perceived locally as a significant breach. The visual impact of the breach has been assessed on three site visits undertaken by the Case Officer in July, September and November 2023, during the life of this application. Access to the footpath from Lince Lane has not been possible on all three occasions due to the amount of vegetation around the stile. The footpath is not visible and the stile providing access is barely visible.
- 9.51. Beyond a visual assessment, no further detail has been forwarded by those who have responded to neighbour notification to justify the protection of this route as a village boundary. It is proposed to be retained as a functional route and there is potential for improvement of it as a PROW with a form of layout which would improve its permeability to and from the site and thus increase its use. The addition of a footpath link east, towards the village centre and along the A4095, would also improve the use and maintenance of the footpath. The objection to a breach of the footpath as a village boundary feature therefore cannot be sustained.
- 9.52. With the release, by MCNP Forum on the 13th of November.2023, of their assessment of the twelve sites put forward for development in the village and the six subject to a more detailed assessment, it is clear that all six are outside of the existing settlement boundary and would encroach into countryside. Visual prominence is cited as a reason for objecting to the current application, but it is not put forward as an objection in comparison to the prominence or otherwise of all of the other sites considered in the group of six, other than for some responses to neighbour notification to have stated that they prefer sites which are more hidden. A site hidden from view does not necessarily produce a site which can integrate well with an existing settlement, and it has to be accepted that the majority of development results in a degree of prominence in the landscape, including those dwellings and other buildings constructed in the village over the past few centuries. It is the details of design, layout and landscaping which determine whether a proposal assimilates itself into a settlement. At outline stage, therefore, the objection to the development of the site due to its encroachment into the countryside and due to its visual prominence cannot be sustained.
- 9.53. Concerns relating to the absence of a natural boundary feature for the proposed northern and western edges of the site are also noted. However, the site is of sufficient size for the number of dwellings proposed that suitable boundary details could be incorporated into the scheme, integrating it into the current village layout and character. It is for the applicant to forward a suitable scheme at the Reserved Matters stage which addresses these concerns and, as with any prominent location, the bar for achieving such integration is a high one.

Conclusion

- 9.54. There would be visual impacts associated with the development but the impact of the development on the character of the area is considered to be moderate. This impact can be mitigated to a large extent through a high standard of design, layout and landscaping. This potential for harm needs to be weighed in the planning balance

when considering the development as a whole and it needs to be weighed against the potential for improvement of the experience of this part of the village through increased permeability.

Residential amenity for adjoining neighbours

Policy context

- 9.55. 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 2015 which states: *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

- 9.56. The application is in outline only and therefore all detailed proposals in reserved matters applications would need to have due regard to the 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 will be given due consideration at reserved matters stage.
- 9.57. The proposed development would be located to the west of the existing residential dwellings at Hatch Way and Oxford Close. At reserved matters stage a suitable separation distance and orientation of the proposed properties can be agreed to ensure the existing neighbouring dwellings are afforded suitable protection. A condition is proposed to ensure that full details of existing and proposed levels are submitted as part of any reserved matters application.

Conclusion

- 9.58. Given the above, it is considered that the development could 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 in accordance with the requirements of Policy ESD15 of the CLP 2015, Policy C30 of the CLP 1996 and Government guidance set out in the NPPF.

Highway safety and public transport

Policy Context

- 9.59. Policy ESD15 of the CLP 2015 states: *New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions.* Policy SLE4 states: *All development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported.* The NPPF advises that development should provide safe and suitable access for all and development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or where the residual cumulative impacts are severe.
- 9.60. Objective T1 of the MCNP seeks to protect against rising traffic volumes and the impact of increased development on the capacity of the rural road network serving the neighbourhood. This includes concerns about speeding, safety and the impact of

HGVs. Objective T2 seeks to secure the future of bus services linking the neighbourhood's villages with each other and with Bicester. There is no MCNP policy tied to these objectives.

Assessment

- 9.61. Access is proposed onto Lince Lane (A4095) immediately north of the existing 20mph speed limit sign, on the outside of a curve. The speed limit to the south is 50mph. The Highway Engineers advised that the gradient of the land and vegetation outside of the site in the area required for the visibility splay are preventing the achievement of the required splay. They therefore requested the provision of a speed survey, achievable visibility splays and a Stage 1 Road Safety Audit (RSA1), together with a designer's response. Highway Officers supported the proposal for an extension of the 20mph speed limit further south and also proposed the introduction of a buffer at 30mph.
- 9.62. The application proposes to provide a 2m footpath into the site and to extend this along the verge, linking to the existing footpath towards the village. The existing footpath is also in need of improvement further towards the village, opposite the junction with Bletchingdon Road, where there is a small unsurfaced gap. This is required to be improved to provide a continuous walking route.
- 9.63. A S.278 agreement would therefore address:
- Creation of bell-mouth access
 - A 2m-wide footway linking to existing footway towards the village centre and improvements to the existing footway opposite Bletchingdon Road
 - Relocation of the 20mph speed limit and the addition of a 30mph buffer
 - Other localised safety mitigation measures as may be considered necessary, dependent on the outcome of the safety audit
- 9.64. This would be secured by means of a S106 restriction not to implement development (or occasionally other trigger point) until the S278 agreement has been entered into. The trigger by which time S278 works are to be completed shall also be included in the S106 agreement. Identification of areas required to be dedicated as public highway and agreement of all relevant landowners will be necessary in order to enter into the S278 agreements. The agreement would require payments, including commuted sums.
- 9.65. A further technical note was therefore submitted, TN03 (TPA, October 2023), which includes a Road Safety Audit Stage 1. The Highway Engineer has stated satisfaction that the mitigation proposed, including a vehicle activated sign (speed limit reminder), and a village gateway feature, was sufficient.
- 9.66. Up until 2022, Kirtlington enjoyed an hourly bus service to Oxford city centre and Bicester. However, this was withdrawn following expiry of developer funding from the Heyford Park scheme, and the County Council has committed funds from its Bus Service Improvement Plan (BSIP) to provide a more limited service as per that reflected in the Transport Statement. However, these funds are only in place until March 2025 and there is no guarantee of service continuation beyond that point.
- 9.67. The rail service frequencies shown from Tackley Station are inaccurate. Service levels are slightly lower than that stated on Mondays to Fridays, and there are significantly fewer trains to Didcot Parkway. The Sunday service is also significantly overstated. Access to Tackley Station is via an unlit, unsurfaced bridleway which is subject to flooding and is unlikely to be attractive to anyone except the most

determined. It cannot be relied upon as a realistic transport choice for anything but a small minority of development residents. Public transport contributions are therefore requested for maintenance of the existing bus service or community transport services in the event that the conventional bus service is withdrawn. Public transport infrastructure contributions are also requested for the bus stops closest to the site at the Oxford Arms. This would ensure that the opportunities for residents to use sustainable modes of transport are maximised in accordance with the requirements of Policy SLE4 of the CLP 2015.

Conclusion

- 9.68. In conclusion and having regard to the above, Officers are satisfied that the proposed development would be served by a safe and suitable means of access and that the scheme seeks to promote sustainable modes of travel and, subject to securing mitigation, would not have an unacceptable cumulative impact on the wider local highway network. The proposals are therefore considered to accord with the requirements of Policies ESD15 and SLE4 of the CLP 2015 in this regard and they score favourably against the relevant criterion set out in Policy Villages 2.

Ecology Impact

Legislative context

- 9.69. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments.

Policy Context

- 9.70. 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.
- 9.71. 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.
- 9.72. Policy ESD10 of the CLP 2015 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.
- 9.73. This policy is 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.
- 9.74. 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 and Conclusion

- 9.75. Subject to conditions or the alternative of a S106 agreement variation if required, to address the need for BNG on or off the site, the proposal is now considered to be acceptable. The proposals are therefore considered to accord with the requirements of Policy ESD10 of the CLP 2015 and Government guidance contained within the NPPF.

Flood Risk and Drainage

Policy context

- 9.76. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 16 of which states that *when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*
- *within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
 - *the development is appropriately flood resistant and resilient;*
 - *it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
 - *any residual risk can be safely managed; and*
 - *safe access and escape routes are included where appropriate, as part of an agreed emergency plan.*
- 9.77. Paragraph 169 of the NPPF continues by stating that *major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:*
- *take account of advice from the lead local flood authority;*
 - *have appropriate proposed minimum operational standards;*
 - *have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and*
 - *where possible, provide multifunctional benefits.*
- 9.78. 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.
- 9.79. 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

- 9.80. A Drainage Strategy (RIDA, August 2023) has been submitted to support the application. The Environment Agency's flood maps indicate that the site is located in Flood Zone 1 and therefore at lowest risk from flooding.

- 9.81. The Local Lead Flood Authority (LLFA) raise no objection subject to detailed conditions regarding to a SuDS and surface water drainage scheme and future maintenance.

Conclusion

- 9.82. The proposals are considered to be acceptable in flood risk and drainage terms in accordance with the requirements of Policies ESD6 and ESD7 of the CLP 2015 and the Policy Villages 2 criterion relating to “*whether the proposals would have an adverse impact on flood risk*”.

Affordable Housing

- 9.83. The PDAS identifies that five affordable dwellings will be provided within the scheme. This falls short of the requirement of the Strategic Housing Team, for six units. This requirement would be secured by the S106 agreement.

Sustainable Construction and Energy Efficiency

- 9.84. Policy ESD1 of the CLP 2015 states that measures should be taken to mitigate the impact of development within the District on climate change, and Policy ESD2 of the CLP 2015 seeks to achieve carbon emission reductions. Policy ESD3 encourages sustainable construction methods. The reference to allowable solutions in Policy ESD2 and ‘zero carbon’ are no longer being pursued by the government so are no longer relevant. A condition is proposed to ensure that full details of a renewable energy strategy are submitted as part of a submission for approval of reserved matters.

Noise, Contamination and Air Quality

- 9.85. The NPPF advises that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to, or being put at unacceptable risk from, or being adversely affected by unacceptable levels of noise pollution or air pollution. Saved Policies ENV1 and ENV12 of the CLP 1996 seek to ensure development is appropriate in terms of contamination and does not give rise to unacceptable levels of pollution.
- 9.86. The Council’s Environmental Protection Officer has reviewed the application and is satisfied that acceptable internal and external noise environments can be achieved on the site subject to detailed mitigation which can be secured by condition. Prior to the commencement of the development, a Construction Environment Management Plan (CEMP), which shall include details of the measures to be taken to ensure construction works do not adversely affect residential properties on, adjacent to or surrounding the site, together with details of the consultation and communication to be carried out with local residents, shall be submitted to and approved in writing by the Local Planning Authority which will be ensured by condition.
- 9.87. In relation to land contamination, the Environmental Protection Officer has raised no objection subject to ‘unexpected contamination’. Suitable conditions are attached. The Environmental Protection Officer has made no comments in relation to air quality, odour or light.

Impact on Local Infrastructure

Policy Context

- 9.88. 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.”*
- 9.89. Policy BSC11 of the CLP 2015 states that: *“Development proposals will be required to contribute to the provision of open space, sport and recreation, together with secure arrangements for its management and maintenance. The amount, type and form of open space will be determined having regard to the nature and size of development proposed and the community needs generated by it. Provision should usually be made on site in accordance with the minimum standards of provision set out in ‘Local Standards of Provision – Outdoor Recreation’. Where this is not possible or appropriate, a financial contribution towards suitable new provision or enhancement of existing facilities off site will be sought, secured through a legal agreement.”* Policy BSD12 requires new development to contribute to indoor sport, recreation and community facilities.
- 9.90. The Developer Contributions Supplementary Planning Document (SPD) sets out the position in respect of requiring financial and onsite 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

- 9.91. 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:
- Necessary to make the development acceptable in planning terms;
 - Directly related to the development;
 - Fairly and reasonably related in scale and kind to the development.
- 9.92. 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.
- 9.93. Having regard to the above, in the event that Members were to resolve to grant planning permission, a list of those items that, in officers’ view, need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council, has been listed in the Recommendation. This is in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts.

Conclusion

9.94. The application is not supported by any draft head of terms for a S106, however written confirmation has been received that confirms the applicant is willing to enter into a legal agreement if the application is to be approved and that they do not contest any of the contributions set out above. It is therefore reasonable to expect that the infrastructure required to mitigate the impact of the development would be secured in accordance with Policy INF1 of the CLP 2015. In the event that the application is recommended for approval at Committee, the decision will be subject to the finalisation of the agreed S106 / S278.

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. This includes accordance with the MCNP as the most up-to-date plan for the village.

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 located adjacent to the settlement boundary of Kirtlington, a Category A settlement. The MCNP provides an indicative level of growth of 17 dwellings, which it considers to be acceptable at Kirtlington over the plan period. On balance the scale of the current proposal would comply with this level of growth and would bring economic and social benefits arising for the provision of new housing which carry moderate weight in the planning balance. The proposal would also bring benefits in terms of the provision of affordable housing to the village and Housing Strategy requirements are for three of them to be accessible and adaptable dwellings, including one wheelchair adapted dwelling, which is supported by the MCNP. These matters weigh in favour of the development.

10.5. The proposal would result in some harm to the rural character and appearance of the locality and the urbanisation of the site at the edge of the village. However, these impacts could be reduced through the provision of a high standard of design, layout and landscaping which, over time, would reduce the impact of the development.

10.6. Policy PD1 of the MCNP allows for the provision a site outside the built-up limits of the village. Therefore, the loss of open countryside is likely to occur to accommodate the growth planned at the village. The application site is located at one of the less sensitive edges of the village in heritage terms and would be seen in the context of existing post-war development. There is no loss of Best and Most Versatile agricultural land which weighs in favour of the proposal.

10.7. Whilst acknowledging there would be some harm to the character and appearance of the area, the benefits of the proposal are considered to outweigh the identified harm and, when viewed together, the proposals are considered to comply with the

Development Plan when read as a whole. It is therefore recommended that planning permission be granted.

11. RECOMMENDATION

DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION, SUBJECT TO:

- i. THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND;**
- ii. 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 six affordable housing units on site, comprising 2 x First Homes (a minimum of 25% of the total) and 4 x rented. The four rented units shall comprise 1 x 2-bedroom house, 2 x 3-bedroom house, 1 x 4-bedroom house.**
 - b) Payment of a financial contribution of £16,995 index linked from December 2021 using RPI-x, towards the provision of public transport for a bus service to be continued in Kirtlington.**
 - c) Payment of a financial contribution of £1,502 index linked from December 2021 using Baxter, towards improvements to infrastructure at the Oxford Arms bus stop.**
 - d) Payment of a financial contribution of £6,652 index linked from November 2023 using RPI-x, towards a Traffic Regulation Order, if not dealt with under S278 / S38 agreement, for consultation on and implementation of speed limit changes.**
 - e) Payment of a financial contribution of £20,000 index linked from November 2023 using RPI-x for the provision of vehicle activated signage.**
 - f) Provision of the site access, village gateway treatment and footpath linking to the existing footpath and footpath improvements opposite Bletchington Road.**
 - g) No development shall commence until S.278 agreement has been entered into, including relevant payments and commuted sums.**
 - h) Payment of a financial contribution towards off site sports and recreation provision towards improvements and enhancements at Kirtlington Village Hall totalling £16,530.12, the enhancement of formal off-site outdoor sports facilities in Kirtlington totalling £30,255.45, and off-site indoor sport contribution towards improvements aimed at increasing the capacity for indoor sport at Kirtlington Village Hall totalling £12,071.52. This would be index linked.**
 - i) Payment of a financial contribution towards the expansion and efficiency of Household Waste Recycling Centre (HWRC) capacity totalling £1,409 (index linked).**
 - j) Payment of a financial contribution towards educational infrastructure serving the provision of secondary education for four pupils of £103,968 (index linked), subject to amendment should the final unit mix of dwellings result in an increase in pupil generation.**
 - k) Payment of a financial contribution towards LAP maintenance for 15 years of £50,279.76, subject to indexation fluctuation in accordance with BCIS All in One Tender Price index by RICS.**
 - l) Payment of a financial contribution towards informal open space maintenance for 15 years of £16.09 per sq.m, subject to indexation**

fluctuation in accordance with BCIS All in One Tender Price index by RICS.

m) Payment of a financial contribution towards hedgerow maintenance for 15 years of £33.83 per linear metre, subject to indexation fluctuation in accordance with BCIS All in One Tender Price index by RICS.

n) Monitoring fee

FURTHER RECOMMENDATION: THE STATUTORY DETERMINATION PERIOD FOR THIS APPLICATION HAS EXPIRED. IF THE SECTION 106 AGREEMENT/UNDERTAKING IS NOT COMPLETED AND THE PERMISSION IS NOT ABLE TO BE ISSUED WITHIN 6 MONTHS AND NO EXTENSION OF TIME HAS BEEN AGREED BETWEEN THE PARTIES, IT IS FURTHER RECOMMENDED THAT THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT IS GIVEN DELEGATED AUTHORITY TO REFUSE THE APPLICATION FOR THE FOLLOWING REASON:

In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure contribution obligations required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and contrary to Policies BSC3, BSC10, BSC11 and INF1 of the Cherwell Local Plan 2015 and its Planning Obligations SPD 2018 and Government guidance contained within the National Planning Policy Framework.

CONDITIONS

Time Limits

1. 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).

2. No development shall commence until full details of the 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

3. 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.

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

Compliance with Plans

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: Location Plan Dwg No 1001.101 Rev B dated October 2022.

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.

Finished floor levels

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 strictly in accordance with the approved levels.

Reason: To secure an acceptable standard of development that safeguards the visual amenities of the area and the living conditions of existing and future occupiers and to ensure compliance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance 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.

Accessible and adaptable homes

6. As part of the reserved matters the proposal shall include the provision of at least two accessible and adaptable dwellings which shall be constructed to meet the Building Regulations M4(2) standards for accessible and adaptable homes and one dwelling built to Building Regulations M4(3) standards for wheelchair user dwellings. Ground level dwellings are to be included. The dwellings shall thereafter be provided on site to accord with this standard.

Reason: To provide a mix of dwellings as supported by Policy PH3 of the Mid-Cherwell Neighbourhood Plan 2018-2031, Policy ESD15 of the Cherwell Local Plan and advice in the National Planning Policy Framework.

Construction Traffic Management Plan (CTMP)

7. Prior to commencement of the development hereby approved, a Construction Traffic Management Plan (CTMP) including routeing avoiding Kirtlington village shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved CTMP.

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.

Means of Access

8. No development shall commence unless and until full details of the means of access between the land and the highway, the footway connecting the development to the existing footway, and the village gateway feature and vehicle activated sign, including, position, layout, construction, drainage and vision splays, have been submitted to and approved in writing by the Local Planning Authority. The means of access, footway and village gateway feature

shall be constructed in strict accordance with the approved details and shall be retained and maintained as such thereafter. Agreed vision splays shall be kept clear of obstructions higher than 0.6m at all times.

Reason: In the interests of highway safety and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Noise

9. Prior to the commencement of the development, a Construction Environment Management Plan (CEMP), which shall include details of the measures to be taken to ensure construction works do not adversely affect residential properties on, adjacent to or surrounding the site together with details of the consultation and communication to be carried out with local residents shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with approved CEMP.

Reason: To ensure the creation of a satisfactory environment free from intrusive levels of noise in accordance with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

10. Prior to the commencement of the development hereby approved a specialist acoustic consultant's report that demonstrates that the World Health Organisations guideline noise value for outdoor areas of 50 dB LAeq (16 hr) or less can be achieved during the time period 07:00 to 23:00 hrs for domestic gardens and recreation areas used in common shall be submitted to and approved in writing by the Local Planning Authority. Where acoustic barriers, planting or other features are required to achieve this standard, full details of these elements shall be submitted with the report for approval. Thereafter and prior to the first occupation of the affected dwellings and the first use of the common areas, the acoustic barriers shall be installed and retained in accordance with the approved details.

Reason: To ensure the creation of a satisfactory environment free from intrusive levels of noise in accordance with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

11. Prior to the development commencing a report should be provided and approved in writing by the local planning authority that shows that all habitable rooms within the dwelling will achieve the noise levels specified in BS8233:2014 (Guidance on sound insulation and noise reduction for buildings) for indoor and external noise levels (if required then the methods for rating the noise in BS4142:2014 should be used, such as for noise from industrial sources). Thereafter, and prior to the first occupation of the dwellings affected by this condition, the dwellings shall be insulated and maintained in accordance with the approved details.

Reason: To ensure the creation of a satisfactory environment free from intrusive levels of noise in accordance with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Contaminated land

12. No part of the development hereby permitted shall take place until a desk study

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

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

13. If a potential risk from contamination is identified as a result of the work carried out under condition 12, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

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

14. If contamination is found by undertaking the work carried out under condition 13, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

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

15. If remedial works have been identified in condition 14, the development shall not be occupied until the remedial works have been carried out in accordance

with the scheme approved under condition 14. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

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

16. Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development [or relevant phase of development] is resumed or continued.

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

Protected Species

17. Where an offence under Regulation 41 of the Habitat and Species Regulations 2017 (as amended) is likely to occur in respect of the development hereby approved, no works of site clearance, demolition or construction shall take place which are likely to impact on great crested newts until a licence to affect such species has been granted in accordance with the aforementioned Regulations and a copy thereof has been submitted to the Local Planning Authority.

Reason: To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

18. Prior to, and within two months of, the commencement of the development, the site shall be thoroughly checked by a suitably qualified ecologist to ensure that no protected species, which could be harmed by the development, have moved on to the site since the previous surveys were carried out. Should any protected species be found during this check, full details of mitigation measures to prevent their harm shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved mitigation scheme.

Reason: To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National

Planning Policy Framework.

Biodiversity Enhancement

19. Prior to the commencement of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) which shall include a Biodiversity Impact Assessment which demonstrates a minimum of 10% biodiversity net gain, with full details of how this will be achieved and monitored for at least 30 years, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the LEMP shall be carried out in accordance with the approved details. A failure to demonstrate the 10% biodiversity net gain shall result in a variation to the S106 agreement, to secure off-site gain in accordance with the provisions of the S106 variation.

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 the National Planning Policy Framework.

20. No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include as a minimum:
- a. Risk assessment of potentially damaging construction activities;
 - b. Identification of 'Biodiversity Protection Zones';
 - c. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
 - d. The location and timing of sensitive works to avoid harm to biodiversity features;
 - e. The times during construction when specialist ecologists need to be present on site to oversee works;
 - f. Responsible persons and lines of communication;
 - g. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
 - h. Use of protective fences, exclusion barriers and warning signs

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

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 the National Planning Policy Framework.

Lighting strategy

21. Prior to the installation of any external lighting a full lighting strategy to include illustration of proposed light spill shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.

Reason -To protect the amenity of the locality and habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and

Government guidance contained within the National Planning Policy Framework.

Sustainable Urban Drainage System

22. The approved drainage system shall be implemented in accordance with the approved Detailed Design prior to the use of the building commencing, reference: Drainage Strategy 402 Rev V2 August 2023

Reason: To ensure satisfactory drainage of the site in the interests of achieving sustainable development, public health, to avoid flooding of adjacent land and property to comply with Policy ESD6 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Surface Water Drainage

23. Construction shall not begin until/prior to the approval of first reserved matters; a detailed surface water drainage scheme for the site, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall include:
- A compliance report to demonstrate how the scheme complies with the “Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire”;
 - Full drainage calculations for all events up to and including the 1 in 100 year plus 40% climate change;
 - A Flood Exceedance Conveyance Plan;
 - Comprehensive infiltration testing across the site to BRE DG 365 (if applicable)
 - Detailed design drainage layout drawings of the SuDS proposals including cross-section details;
 - Detailed maintenance management plan in accordance with Section 32 of CIRIA C753 including maintenance schedules for each drainage element, and;
 - Details of how water quality will be managed during construction and post development in perpetuity;
 - Confirmation of any outfall details.
 - Consent for any connections into third party drainage systems

Reason: To ensure satisfactory drainage of the site in the interests of achieving sustainable development, public health, to avoid flooding of adjacent land and property to comply with Policy ESD6 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

SuDS As Built and Maintenance Details

24. Prior to first occupation, a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:
- a) As built plans in both .pdf and .shp file format;
 - b) Photographs to document each key stage of the drainage system when installed on site;
 - c) Photographs to document the completed installation of the drainage

structures on site;

- d) The name and contact details of any appointed management company information.

Reason - In the interests of sustainability in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Sustainability

25. As part of any submission for reserved matters, full details of a renewable energy strategy for the site in accordance with Policy ESD5 of the Cherwell Local Plan, shall be submitted and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details prior to the first occupation of any building the renewable energy serves.

Reason: To encourage the use of renewable and low carbon energy in accordance with Policy ESD5 of the Cherwell Local Plan 2011-2031 Part 1.

Informatives:

1. Highways: Please note if works are required to be carried out within the public highway, the applicant shall not commence such work before formal approval has been granted by Oxfordshire County Council by way of legal agreement between the applicant and Oxfordshire County Council. This is separate from any planning permission that may be granted.
2. Thames Water: Recommends the following informative be attached to this planning permission. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx. 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

CASE OFFICER: Jeanette Davey

23/02471/F

OS Parcel 0622 South Of Jersey Cottages
And East Of Heyford Road
Kirtlington

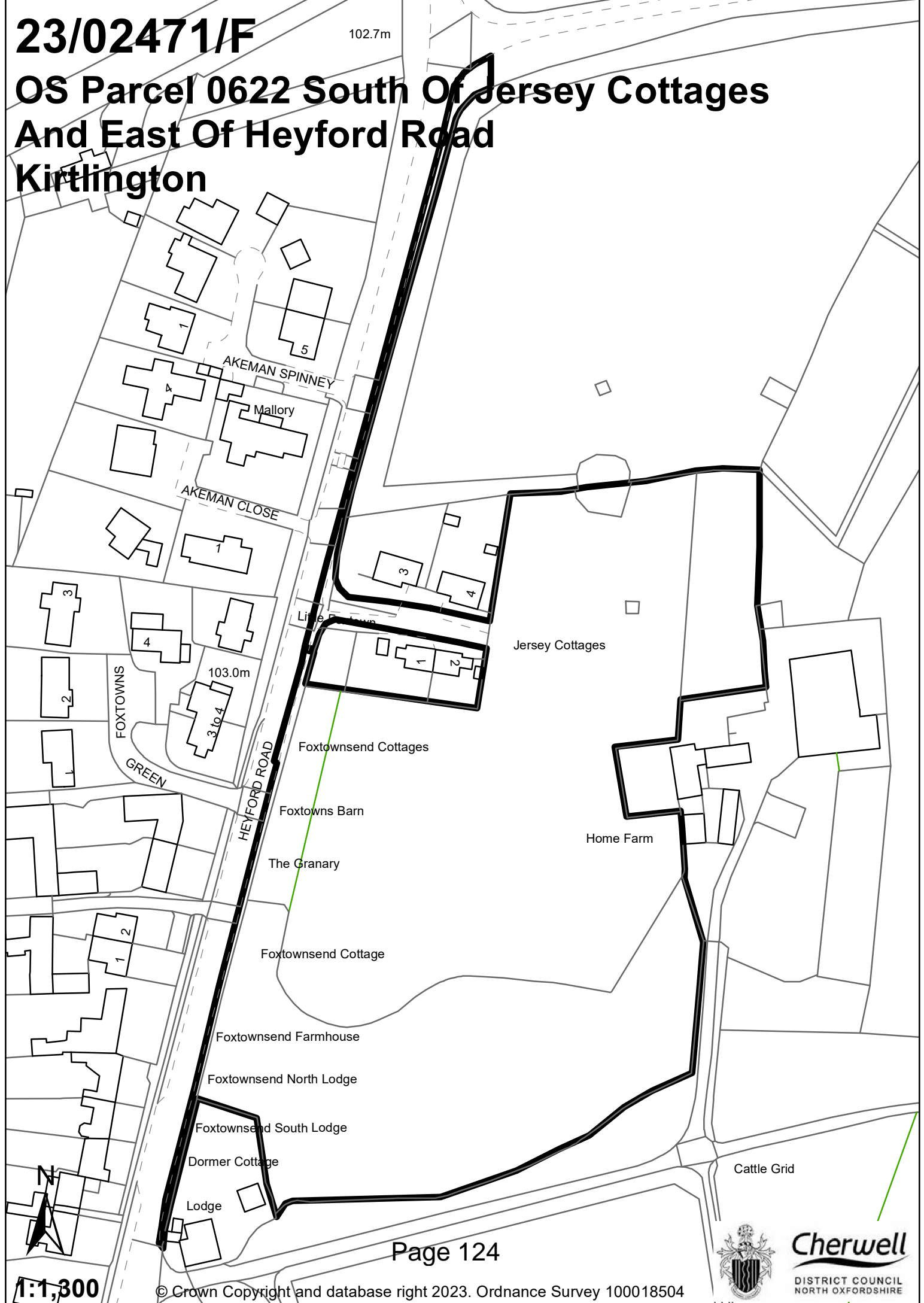


1:1,800

23/02471/F

102.7m

OS Parcel 0622 South Of Jersey Cottages And East Of Heyford Road Kirtlington



1:1,300



23/02471/F

**OS Parcel 0622 South Of Jersey Cottages
And East Of Heyford Road
Kirtlington**



Case Officer: Jeanette Davey

Applicant: Abbeymill Homes

Proposal: Erection of 14 two storey dwellings and upgrading of existing access onto the Heyford Road, together with garaging and parking, footpath link, the removal and re-instatement of a section of existing wall and its repair along the Heyford Road frontage, and landscaping and all enabling development

Ward: Fringford And Heyfords

Councillors: Cllr. Patrick Clarke, Cllr. Nigel Simpson and Cllr. Barry Wood

Reason for Referral: Major development

Expiry Date: 19 December 2023

Committee Date: 7 December 2023

SUMMARY RECOMMENDATION REFUSE

1. APPLICATION SITE AND LOCALITY

- 1.1 The application site is relatively level, measures 2.2 hectares and is paddock land used for horse grazing. The existing access to Jersey Cottages is proposed as the application site's access. The four two-storey dwellings at 1 and 2 Jersey Cottages are said to date from the 1950s or 1960s, and 3 and 4 Jersey Cottages date from the late 1970s.
- 1.2 Existing trees on the application site are subject to an Arboricultural Impact Assessment (AIA) (Aspect Arboriculture, August 2023) and proposed Woodland Management Plan (WMP) (Aspect Arboriculture, August 2023). Paragraph 1.4.1 of the AIA states that there are fifty-nine trees of individual distinction, nine groups of trees, three hedgerows and the woodland. There are no individual TPOs within the application site.
- 1.3 Opposite the site is Foxtowns Green, a residential cul-de-sac of four dwellings built in the mid-1990s.
- 1.4 The site is bounded to the north in part by a significant belt of native trees and, in part, by open access to adjoining horse grazing. To the east, it is bounded by a mix of mature trees, modern agricultural barns to Home Farm, the curtilage of the dwelling at Home Farm and a small area of grassland. To the south, its boundary would follow the line of a significant belt of mature trees. To the west, it is enclosed by mature tree planting and the boundary wall to Kirtlington Park, which the Conservation Area Appraisal describes on P30 as magnificent.
- 1.5 Cherwell Local Plan 2015 (CLP 2015) defines Kirtlington as a Category A Service Village. Proposals for development within the built-up limits of villages will be considered for minor development, infilling and conversions.

- 1.6 Cherwell Local Plan 2040 Regulation 18 Consultation Draft (CLP 2040) proposes that Kirtlington be defined as a Larger Village. This definition is material but carries no weight. Larger Villages are stated as having a more limited range of employment, services and facilities than Local Service Centres (Kidlington and Heyford Park) and Main Towns (Banbury and Bicester). Unplanned development will be limited to providing for local needs and to support employment, services and facilities within local communities.
- 1.7 Mid-Cherwell Neighbourhood Plan (MCNP) states that Kirtlington has a traditional, essentially linear, pattern, north-south. P34 states that the settlement plan, formally adopted by Kirtlington Parish Council in 2016, is limited on the eastern side by the listed historic park, while on the western side a well-defined boundary to the contemporary built area approximates closely the old Woodstock Way, which is clearly visible on 18th and 19th century maps.
- 1.8 MCNP also stated, at the time of publication (May 2019), that the school at Kirtlington was at full capacity with no physical space to expand as the playground was already at minimum size for the number of pupils. OCC Education envisaged bussing overflow to the school in the next village. Kirtlington's small shop was well-used and often had queues. The village hall was already booked every weekday evening and at most weekends. Since publication, the shop has closed. The Parish Council is proposing to replace it with a community shop and café at the village hall. The planning application for this proposal, ref 23/02523/F, was approved on 08.11.2023.

2. CONSTRAINTS

- 2.1 The application site is within a Grade II Registered Park and Garden (RPG) designed by Capability Brown. It forms the garden and part of the parkland to the Grade I listed house at Kirtlington Park. The Historic England listing for the RPG extends to approximately 300 hectares (740 acres).
- 2.2 The application site is also within Kirtlington Conservation Area. In geographic extent, the Conservation Area is dominated by the RPG. The Conservation Area Appraisal (2011) states that the total area of Kirtlington Park is 1,200 hectares (3,000 acres). Section 9.1 of the appraisal defines the topology and appearance of the park as gently undulating grassland studded with mature specimen trees. The siting of the main house on the top of the slope within the park enhances its prominence in the landscape and visibility from all parts of the surrounding park. It continues that, within the park, enclosures are rare.
- 2.3 Within the RPG is Home Farm, a Grade II listed dwelling. Home Farm's stead includes a range of traditional and modern barns. Its curtilage juts into the field subject of this application.
- 2.4 Other nearby listed buildings include 1-4 Foxtownsend Cottages, two pairs of Grade II listed cottages opposite the application site. Four other Grade II listed buildings are to the south and south-west of the application site and include the lodge and attached gates to the park. The closest of these six listed buildings is c.4.6m and the furthest c.20m from the site edged red when measured to the southernmost part of the proposed visibility splay.
- 2.5 The agricultural land classification (ALC) of the northern half of the site is Grade 2, thus within the Grades 1-3a range of best and most versatile agricultural land. The southern half is Grade 5.
- 2.6 The site has no specific ecological designations.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. Vehicular and pedestrian access is proposed via Little Foxtown, a no-through road, between the four dwellings known as Jersey Cottages. A proposed extension of the road would divide into two beyond the existing cottages, with that heading north servicing six of the proposed dwellings and that heading south, including a hammerhead turn at its end, for the remaining eight. To increase the visibility splay when exiting onto Heyford Road, a section of the RPG's boundary wall is proposed to be demolished and re-aligned on both sides of the exit, and the bell mouth access widened to allow two-way traffic.
- 3.2. Pedestrian access is also via a footpath encircling the southern group of eight dwellings. Within the site is a proposed access point from that footpath onto Heyford Road, closer to the centre of the village. Its provision would require another section of the boundary wall to be removed and replaced with a new gate.
- 3.3. Tenure for the six dwellings to the north is proposed to be affordable housing, with the nature of tenure to be agreed. Tenure for the eight dwellings to the south is proposed as private market housing. Paragraph 4.14 of the Planning Statement (Abbeymill Homes, September 2023) advises that the proposal will fulfil a local housing need for those properties most in demand in the district.
- 3.4. External-facing layout of the site shows three dwellings facing Heyford Road, with a set-back of approximately 28 to 30 metres between the dwelling frontages and the road edge. The buffer comprises both the parkland wall and the belt of mature trees, whose crown diameters measure up to 30 metres. Paragraph 4.7 of the Planning Statement considers that this will continue the linear arrangement that exists on the opposite side of the road, but the proposal does not include any direct access from each property to Heyford Road, as exists opposite. Each dwelling frontage opposite is set back between approximately 11 to 14 metres from the road edge. Buffers for those frontages comprise hedgerow boundaries and some low boundary walls.
- 3.5. Internal-facing layout of the site has seven dwellings fronting the proposed extension to the access to Jersey Cottages. The access turns north to two dwellings which would front an area proposed as open space and whose rear gardens would back onto that at 4, Jersey Cottages. The access turns south to the remaining dwellings. None of the eight dwellings in the southern half of the development would front the new access road, with each having its enclosed rear garden or its gable end against the road. Enclosure of private amenity space facing the road for all eight dwellings is proposed in 1.8m high stone walling.
- 3.6. Density of development is defined on P12 of the Design and Access Statement (DAS) (Abbeymill Homes, September 2023) as being at 25dph exclusive of open space, *which reflects its sensitive location adjoining open countryside and on the settlement edge.*
- 3.7. Design of dwellings is described in the Planning Statement as detached and semi-detached units, in two storeys and in a traditional style.
- 3.8. Dwelling sizes range from two- to four-bed, with an equal split between the tenures for two- and three-bed dwellings, but with both four-bed dwellings being for private market housing. The six affordable dwellings to the north comprise two two-bed and

four three-bed. The eight private market dwellings to the south comprise two two-bed adjoining Jersey Cottages, four three-bed and two four-bed.

- 3.9. Private amenity space lengths for the rear of each dwelling range from approximately 10 metres up to 22 metres, with some of the shortest having part of their garden length reduced to 7.5m.
- 3.10. Parking on-site for each dwelling is proposed as two parking spaces, with some being in garages. The accompanying Plot Schedule Rev B shows a total of 5.6 unallocated parking spaces. It is not understood how 0.6 of a parking space is to function and it is not shown on the Site Layout Plan, which shows five parking spaces.
- 3.11. Materials proposed for each dwelling are Cotswold stone under slate roofs, with four of the dwellings shown as having flat green roofs to part of each dwelling to the rear. The road system and visitor parking spaces are in block paving throughout, including a change to that which exists in front of Jersey Cottages. Tarmac is proposed at the bell mouth junction with Heyford Road.
- 3.12. Heritage assets are considered in Paragraph 4.5 of the Planning Statement which states that a significant open buffer has been maintained with Home Farm to the east. At its closest point, this measures approximately 3.36m between the boundary to Home Farm and the nearest newly built form: the proposed encircling footpath. At its furthest point, this measures approximately 21.8m between the corner of the dwelling at Plot No 9 and the corner of Home Farm.
- 3.13. Woodland area management is addressed in Paragraph 1.4.4 of the WMP, which states that management of the woodland areas has previously been limited. Section 3.7 proposes structural thinning and restocking. Paragraph 3.4.1 proposes footpath routes for residents as informal trails, replenished as required with woodchip to enable year-round use. No mature trees are recommended for removal within the woodland areas. Sections 3.10 and 3.11 propose monitoring of the woodland areas on a five year cycle and implementation of the WMP by a management company appointed by the developer.
- 3.14. Existing trees and landscaping are stated as being affected in Point (v) of the Executive Summary, which states that the proposed development would result in the loss of three trees of individual distinction, two domestic hedges and the partial clearance of low-quality scrub. Paragraph 4.1.4 of the AIA states that the losses are primarily to enable the proposed vehicular access. Paragraph 1.4.6 considers that the removal of four trees is recommended irrespective of the development proposal. It is not clear whether this is additional to the three trees proposed for removal in Point (v) of the Executive Summary.
- 3.15. Proposed trees and landscaping include enhancement of the understorey layer within the shelter belt on the southern and western boundaries. The Landscape Strategy Plan indicates that reinforcement is proposed on the boundaries of the site. Within the site, ornamental trees, hedges and shrub planting are proposed, including orchard trees within the north-east corner of the site. Additional shrub planting is proposed along the boundary with Home Farm. A mown grassland route is proposed to the southern side of the site, together with 'medium' trees, intended to reflect the parkland character of the wider landscape setting.
- 3.16. Public open space is identified in Paragraphs 4.1 and 4.8 of the submitted Planning Statement and it is shown in indicative terms on the Landscape Strategy Plan, but it is not specifically delineated on plan. Paragraph 4.8 states that it is extensive. It appears to be at land to the east of plots 4, 5, 6, 9 and 10, to the south of plots 9-12 and to the west of plots 12-14.

- 3.17. Biodiversity Net Gain is defined in Section 5.3.1 (P25 onward) of the Ecological Impact Assessment (Windrush Ecology, August 2023). The result of the calculation predicts a net gain in biodiversity value. It continues: *The parkland style habitat that will be created to the south and east of the development has been designed to integrate the development into the surrounding landscape and create a new area of parkland, which is a target habitat of the nearby Kirtlington and Bletchingdon Parks and Woods Conservation Target Area. It will provide a stepping stone of habitat and over time as it matures, a continuation of a high value habitat that will link the woodland and parkland in the wider area. Further species-specific enhancements have also been included within the development in order to provide additional gains for biodiversity.*
- 3.18. Accessibility improvements are outlined in the Transport Statement (Glanville, August 2023). There is no pavement on the application side of Heyford Road. Improvements therefore include a proposed uncontrolled crossing to connect the development on the eastern side of Heyford Road to the existing footway on the western side of Heyford Road. A second uncontrolled crossing is proposed further south on Heyford Road, to connect the footpath loop within the site to the western side of Heyford Road. These crossings have not been plotted but would be subject to a S.278 agreement with the Highway Authority.
- 3.19. Drainage is defined within Page 8 Paragraph 5.4 of the Drainage Strategy to include SUDS, including permeable pavements and a pond, the latter being defined on an unnumbered page and an unnamed plan within the document as not being designed for water storage but to distribute greenfield run-off to a large area, mimicking existing conditions. Maintenance is stated as being in accordance with The SUDS Manual (presumably that published by CIRIA, 2015) and would range from as required / monthly to every five years.
- 3.20. Sustainability features include integrated solar hot water panels and air source heat pump technology.
- 3.21. Repairs to the existing stone wall are proposed as part of the scheme.

4. RELEVANT PLANNING HISTORY

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

Application: 73/00503/NE	Approved	7 February 1974
Erection of two cottages for agricultural workers. Access.		
Application: 15/01128/OUT	Application Withdrawn	29 September 2015
OUTLINE - Demolition of 1 to 4 Jersey Cottages, residential development for the erection of up to 34 dwellings, open space and associated works		
Application: 15/00054/SO	Screening Opinion not requesting EIA	8 July 2015
Screening Opinion to 15/01128/OUT - OUTLINE - Demolition of 1 to 4 Jersey Cottages, residential development for the erection of up to 34 dwellings, open space and associated works		

Application: 17/01688/OUT Refused 24 November 2017

OUTLINE - Proposed residential development for up to 20 new dwellings and associated works with all matters reserved except access (Resubmission of 17/00539/OUT)

Application: 17/00539/OUT Application
Withdrawn 14 June 2017

OUTLINE - Proposed residential development for up to 20 new dwellings and associated works with all matters reserved except access.

Application: 17/00011/SO Screening Opinion
not requesting EIA 28 March 2017

Screening Opinion to 17/00539/OUT - Proposed residential development for up to 20 new dwellings and associated works with all matters reserved except access.

4.2. In reviewing the one application that has previously been refused, ref 17/01688/OUT, and the current application, they have been compared in the context of the former being an outline application with an illustrative sketch scheme which did not have a scale, but for which it is possible to have worked out the scale at approximately 1:750, versus the latter being a full application with scaled plans. The principal differences appear to be as follows:

- a. The site edged red is broadly the same, with the refused scheme excluding two areas: land to the south beyond the dwellings and a parcel of land to the east.
- b. Twenty dwellings were proposed for the refused scheme versus fourteen for the current scheme, with a consequential impact on layout.
- c. The total number of hectares proposed for development was 1.26ha for the refused scheme versus 2.2ha for the current scheme, including informal open space for the latter.
- d. The stated density, in dwellings per hectare (dph), was 16dph for the refused scheme versus 25dph for the current scheme.
- e. The built footprint of the refused scheme extended to the edge of existing woodland. The current scheme's built footprint is approximately 19 metres from the edge of the existing woodland.
- f. The distance between the curtilage boundary of Grade II listed Home Farm and the nearest built form is approximately 13.23 metres to a road in the refused scheme versus 3.36 metres to a footpath in the current scheme. To the nearest dwelling, it is 22.3m in the refused scheme versus 21.8m in the current scheme.
- g. The distance from the frontage of dwellings that would face Heyford Road to the road edge was approximately 17-31 metres for the three dwellings in the refused scheme versus 28-30 metres for the three dwellings in the current scheme.
- h. A five-year housing land supply (5YHLS) existed with the refused scheme and with the proposed scheme.

- i. The planning obligations were drafted in detail within the Design and Access Statement for the refused scheme and they have been acknowledged in principle in paragraphs 6.92 and 6.93 of the Planning Statement for the current scheme.
- 4.3. Paragraph 3.7 of the Planning Statement for the current scheme misrepresents the Officer Report from the refused scheme. It states that Officers advised that:
...if the scheme received clear support from the Parish Council and village residents and any harm to the heritage assets and visual amenities of the area could be shown to be limited and outweighed by public benefits, it may result in a positive Officer recommendation.
- 4.4. This quote is not in relation to the refused application. It is a quote from PreApp ref. no. 16/00329 for roughly the same site and scheme, to which a response was issued on 12.12.2016. All PreApp responses include a caveat to the effect that the response is the professional opinion of an Officer of the Council and that it does not necessarily represent the opinion of the Council itself.
- 4.5. The accurate record of the Officer Report for the refused scheme is in Paragraph 8.11 which states, in the report to Committee dated 23.11.2017:
Whilst... the strength of support from the Parish Council is a consideration which should be given weight, in the context of the issues raised and the Council's current ability to demonstrate a 5 year housing land supply, it is considered that the support for the scheme is not so overwhelming that it would outweigh the conflict with the Development Plan.
- 4.6. The four reasons for refusal for 17/01688/OUT were as follows:
 1. By virtue of its siting, scale, size and form the proposal fails to respect the traditional linear settlement pattern of Kirtlington extending well beyond its built up limits to the east into open countryside and into Kirtlington Park, resulting in an incongruous and inappropriate form of cul-de-sac development which would relate poorly to the remainder of the village, and cause demonstrable harm to the rural character and setting of the village and visual amenities of the area. Therefore the proposal is contrary to saved Policies H18, C8, C27, C28 and C30 of the Cherwell Local Plan 1996, Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 and Central government advice within the National Planning Policy Framework.
 2. The proposed development would by reason of its location, scale, and form cause considerable harm to the character and significance of the heritage assets of Kirtlington Conservation Area and the Grade II Registered Kirtlington Park, and would cause unacceptable harm to the settings of nearby listed buildings in particular Home Farm and the wider setting of Kirtlington Park House. Whilst, on balance, this harm is less than substantial the public benefits do not outweigh this harm. Therefore the proposal is contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 and the National Planning Policy Framework in particular paragraph 17 'Core planning principles' and section 12 'Conserving and enhancing the historic environment', and the Planning Practice Guidance.

3. In view of the harm identified in refusal reasons 1 and 2 above and in the context of the Council being able to demonstrate an up-to-date 5 year housing land supply, the proposal is considered to be unnecessary, undesirable and unsustainable new housing development that would conflict with the criteria for assessing proposals for minor development listed under Policy Villages 2 of the Cherwell Local Plan 2011-2031. Therefore the proposal is unacceptable in principle contrary to Policy Villages 2 of the Cherwell Local Plan 2011-2031 and Central government advice within the National Planning Policy Framework.
4. In the absence of a satisfactory planning obligation the Local Planning Authority is not convinced that the infrastructure required to mitigate the impacts of the development on existing community infrastructure and services, along with the affordable housing directly required as a result of this scheme, will be delivered. This would be contrary to Policies BSC3 and INF1 of the Cherwell Local Plan 2011-2031 and central government guidance within the National Planning Policy Framework.

5. PRE-APPLICATION DISCUSSIONS

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

Application: 21/03786/PREAPP	Response Sent	20 January 2022
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Pre-Application Enquiry - Erection of 14 two storey dwellings, including affordable housing

- 5.2. Three site layout options were presented in this pre-app, all broadly on the same footprint as the current proposal but with alternative access points, site layout and areas coloured green on the Site Proposal Option plans. Again, in broad terms, the options are not dissimilar to the footprint of the current application, with Option 3 proposing access between Jersey Cottages and Options 1 and 2 from alternative locations on the Heyford Road and Akeman Street.
- 5.3. The Case Officer responded in the absence of a response to consultation from The Gardens Trust. She summarised that any future planning application for these proposals was very unlikely to be considered favourably due to its impact on the visual amenities and rural character of the village and its setting. It would also be harmful to the traditional settlement pattern and would have a significant adverse impact on Kirtlington Park and would neither preserve nor enhance the character and appearance of the Conservation Area, nor the setting of Home Farm.

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 **13 October 2023**, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. Twenty-five responses to neighbour notification and publicity have been received: 17 against the proposal and 8 in favour. The comments raised by third parties are summarised as follows:

Objections

Impact on the settlement

- Failure to respect the linear settlement pattern.
- In clear contrast to the prevailing and established grain of the village, representing an unacceptable sprawl of development into the Kirtlington Park Estate.
- Incongruous, unnecessary and creeping urbanisation in the rural and open character of this section of the village.
- Development within villages must be brought forward in a manner which reflects the established development pattern. Kirtlington cannot embrace any more big site housing - creating yet more distinct areas apart from the rest of the village (like Gossway). This will cause further impersonalisation, making it feel more like a suburban settlement than a close-knit village.
- The proposed development would have very limited connectivity with the remainder of the village and reads as a distinct and separate housing development, on the edge of the settlement and out of kilter with the prevailing development pattern.
- The submitted layout is contrived and appears to have been shaped so that it can be nestled into the centre of the existing paddock in which it has been located, and does not respond to the numerous heritage, arboricultural or landscaping constraints in either an imaginative or considerate manner. It fails to form acceptable relationships with the existing built environment and the local landscape setting.
- Relates poorly to surrounding properties.
- Will be visible from the north, particularly Akeman Street.
- Permanent alteration to the character with street lights, pavements, signage and associated destruction of green space.
- It is clear there is a bigger development intended!

Impact on the heritage assets

- The listed building, RPG and Conservation Area designations demand high quality and proportionate development to be brought forward for consideration. This development would spoil the surrounding area.
- The land subject to the application for development adjoins the landscape designed by Capability Brown; it is one of the finest of Oxfordshire's country houses and parklands.
- The proposed site is firmly within the overall scheme of the park designed by Capability Brown, which remains a beautiful, famous and nationally valuable contribution to the area.
- Development on this site will not enhance or conserve the character and appearance of the registered park and its setting; it would affect it detrimentally. Destruction of part of the border of this park, which is created as a shelter for the landscape, would greatly damage the design as a whole, and grievously alter its appearance from its outside.
- It is unacceptable for the protected wall be demolished firstly, to gain access to the site and secondly, to give access via a footpath to the development.
- In the past few years there have been a number of applications for building on the site designated in this application, with proposals for thirty-seven, twenty-eight and twenty houses. Those proposals underwent various amendments, in attempts to meet Cherwell DC's objections to them, but the amendments in each case proposed did not address the fundamental flaws in the proposals. The current application appears to suffer from the same issues, which is wholly unsuitable for development, for whatever number of houses.
- The proposal would blight the approach to Kirtlington from the north, which consists of green fields, an ancient wall and fine trees and it would also closely

and directly impact the environment of the listed eighteenth-century cottage immediately adjacent.

- The mature trees and planting which line the Western boundary of the application site are deciduous, and whilst they provide good screening of the proposed development from many of the heritage assets named above, during the winter months, this screening is lost, and clear visibility of the site can be achieved. Light pollution will be worse in winter months, when the loss of the foliage and screening is most pronounced, which will significantly impact the setting of the heritage assets.
- These designated heritage assets do hold individual relationships with the application site, contrary to the statement made on paragraph 6.2 of the submitted Heritage Statement.
- The sprawl of urban development towards a Grade I listed asset cannot be considered to represent an acceptable form of development or an acceptable development site.
- It is, by definition, harmful to the rural character of the village and would have a significantly adverse impact on Kirtlington Park, causing significant harm to the individual heritage assets, their settings, and the wider conservation area.

Housing supply

- The categorisation of Kirtlington is out of date:
- The shop has gone (a community shop is being attempted but nothing thus far, and even if successful this will be a skeletal operation)
- The post office is hardly working (it was closed most of the summer and the owners have moved out of the village with I believe an intention to close completely)
- The bus timetable has severely reduced
- One pub has completely closed with the other only open Wed - Sun
- Not every Category A Village is required to accept additional housing. More should be done to resist further development. The site is not suitable for the form and scale of residential development proposed regardless of any local or Parish Council support.
- The use of the argument that larger villages should have more housing than others is nonsensical. The fact that we are 'larger' already suggests we have had to incorporate a large number of dwellings and have therefore had our relevant quota. The reason this needs to be considered is the development of Gossway Fields and Hatch Way/Close, together with infilling to the North of the village, which has considerably changed the look, feel and 'workings' of the village, with it having four distinct areas.

Highways and access

- Traffic in Kirtlington has been increasing year on year with the ever-increasing number of housing and other developments in the local area yet absolutely nothing is being done to tackle the increasing transport problem in North Oxfordshire. The M40 and A34 are totally inadequate for the number of vehicles, so minor roads are constantly used as rat runs. During rush hour or if there is an incident on the A34/M40, frequently the villages in the surrounding area (including Kirtlington) become gridlocked. This is an utter detriment to the quality of life of residents. To add to this, bus services have been cut, and would have been cancelled if not for active and passionate local residents. Lorries are happy to use our village as a bypass to deliver to other local shops, the main bus services from Bicester/Oxford/Cambridge are happy to use our village as a through road when they choose if the A34 has problems. But there is no shop, and these buses do not stop and serve our village. The village is becoming a victim of developments in other areas and the traffic problem is being totally ignored.

- In my view no more housing should be built in Kirtlington until measures are put in place to reduce through traffic first. For example, banning HGVs, more chicanes, a bypass, perhaps an LTN at one end of the village to prevent through traffic?
- The noise of the traffic has risen dramatically over the years and the addition of a crossing will not only increase the levels of noise but also the level of pollution due to the stopping and starting of engines, no doubt heavier at rush hours, particularly with the large numbers of lorries, acceleration and deceleration and heavy goods vehicles passing through the village constantly.
- Our main concern is the safety of access with additional vehicles at the end of a village where cars traditionally drive faster than 20mph
- Assuming some of new residents will have families using village school, it will currently require x2 crossings of road to reach the village school which, particularly in the morning, is very busy with commuter traffic. Danger to preschool and junior school children.
- I doubt the safety of future residents as there are not adequate pathways for pedestrians.

Ecology

- An Environmental Impact Assessment is essential before further consideration is given to this site.

Access and Impact on Trees

- The proposed widening of the access will place unacceptable pressures on the trees immediately adjacent to the access. It is noted that the submitted AIA begins to address the impact of this widening on the RPA of trees 2 & 3, however this report only describes a method for removing and replacing hard surfacing with respect to these trees and does not acknowledge the foundations required for the proposed boundary wall amendments, which will fall within the RPA for these trees. It is important that a clear picture is given of what engineering work is required here, so that a fair and balanced assessment can be made. This should not be dealt with under a planning condition, due to the potential impact on important and irreplaceable trees which contribute highly to the character of the village in this location. Details of new surface build-ups and levels should also be requested to ensure that the new road surface is capable of being formed on top of the existing sub-base. The intensification of use – from 4 to 18 units, and future adoption of the new access road is likely to require a different build up to the existing private road.
- Details on location / siting for service trenches also need to be understood with respect to these and other trees.

Sustainability

- Kirtlington has suffered the loss of the village shop and Post Office, and the regular bus route is now severely reduced and under threat of closure. The developers simply see the site as a profit-making exercise and are not contributing anything to the village needs or services to maintain the character.
- There are problems with the back-up of sewage in this part of Kirtlington.

Democratic process

- In Kirtlington village itself there remains a significant lack of consensus about the application, with much strong objection apparent; alongside there is some support driven by the hope that development of this site will lead the council to reject applications for development in other parts of the village; valid reasons for support for an application should not include guesses about the council's consequent attitude to other development applications.

- Outraged that it has come to the 'divide and conquer' method by pitching different sites in and around the village against each other
- By suggesting we 'must' have housing (which is not correct) - it means villagers from different areas in the village are set against each other - instead of fighting together against the overall proposal. This of course plays into the hands of the developers as each site is now strengthened having less objections per site.
- If needs be then have a ballot which includes ALL the villagers of Kirtlington to vote on it, not people from outside this village.

Community Benefits

- As stated on the Kirtlington website: 'community views are an important part of the process.' Community is everything in a village. It is almost destroyed already... I appeal to the Council to object to this planning application. We are already large enough; we have done our bit as far as large numbers go. The proposal conflicts with the benefits of a community as listed by the Government.
- There is no interest in adding any value to the village (perhaps propose some shops, or ways to reduce traffic when they apply next time). It will only increase traffic. There are ample housing developments in the north area of the parish in Heyford, which do have facilities (eg shops).

Support

- Impact on both the RPG and Conservation Area would be minimal and would allow Kirtlington to move some way to meeting its obligations under the current Local Plan without significant harm.
- Although the details of the proposals are illustrative, they demonstrate a development which would potentially integrate well with the existing built fabric of the village, particularly with the addition of a footpath link.
- There is an opportunity for better quality design in the detail of the houses and layout, should the application be approved, to create a proposal which better reflects the character of the village vernacular architecture.
- I feel this village has to grow to allow the children who have been born here to purchase their own homes, also with an influx of new families, the school would still be needed, and maybe we would get a shop and post office which would benefit the whole village.
- Kirtlington is targeted for more housing and this application is more in keeping with the historically linear village heritage than other planning applications.
- We are happy provided that the houses are in keeping with other houses in the village.
- It is important that the existing mature trees on the site bordering the Heyford Road are maintained.
- This particular position for houses would be quite a good one as there is already safe access and services to the proposed design. It is near the end of the village so can access Bicester, the B430 and A34 without going through the village itself.
- This site provides the best solution for more houses, with minimal adverse effects on the character and appearance of the village, or on nearby houses. The site proposed respects the linear pattern of Kirtlington, and it is well-screened both from the main road and from other houses.
- The proposal offers a mix of properties, including smaller affordable houses.
- The site is not within the historic park and is separated from that park by existing mature trees. It is quite different in character from the landscaped park, having previously been a common thoroughfare called Town Green, and so this development should have no impact on the historic park.
- The land in question is well covered by trees and a wall meaning the development will be well hidden.

- Repair of existing walls alongside the road frontage and landscaping to ensure the area is presentable in line with the current landscaping would be beneficial.

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

7. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. KIRTLINGTON PARISH COUNCIL (summary): **Divided.**

Areas of support:

Provision of starter homes, affordable dwellings and smaller dwellings for downsizing; improved design compared to the previous scheme; reduction in the number of dwellings proposed; harm to a heritage asset is at the lower end of less than substantial; spurious and unsupported inclusion within the RPG; not part of the park designed by Capability Brown; no intervisibility with the Brownian landscape; no harm to the original design intent or setting of Kirtlington Park house; very peripheral relationship with the Conservation Area; minimal harm to nearby listed buildings.

In this context, the scheme should be permitted because the Conservation Area status would allow the achievement of a high quality of finish to the development.

The response proceeds to list benefits of the scheme. It requests continuing engagement between Parish Council and agent.

Areas of opposition:

A modern housing estate within a designated RPG and Conservation Area would not be an enhancement; within the curtilage of a Grade I listed building and in close proximity to a Grade II listed building; partial destruction of the parkland, damaging the design as a whole; clear visibility through the trees, worsened when not in leaf; the repair of the wall is the responsibility of the landowner and not a community benefit; blight of the approach to the village from the north; conflicts as stated in the PreApp of 2022; creeping urbanisation including of engineering clutter; conflict with the NPPF, CLP(2015) and the MCNP.

General comments on sustainability, applicable to any application in the village:

Service provision calls into question the proposed categorisation of Kirtlington as one of the eleven larger villages in the draft CLP (2040); the foul sewage system in the village is not fit for purpose.

7.3. MID CHERWELL NEIGHBOURHOOD PLAN FORUM (in full): **Support.**

While we are aware of the sensitive nature of the site, MCNPF considers the application to be of suitable quality, and that it will make a valuable contribution towards the housing needs of Kirtlington. In our view, the site is one of the only sites in the parish that can successfully accommodate new housing without causing serious harm to the character of the village.

As part of the review of the neighbourhood plan, MCNPF is undertaking assessments of all eligible sites in Kirtlington. The review team's recommendations are that this site is suitable for allocation for housing in the emerging NP review. The housing allocation

process is at an interim stage, but the conclusions follow many months of analysis. The Regulation 14 consultation, which will include housing allocation on this site, is due to commence in early January 2024.

It would be inappropriate for Cherwell to refuse this application in the knowledge that the emerging NP Review, in which a site allocation process in Kirtlington to be carried out by MCNP was agreed with Cherwell officers in July 2023, supports development on this site.

Officer Note: A draft set of reports and assessments has been made public from 13.11.2023 on the following website: <https://kirtlingtonvillage.co.uk/mid-cherwell-neighbourhood-plan-report-2023>. That specifically relating to this site is at <https://kirtlingtonvillage.co.uk/wp-content/uploads/2023/11/KIRTLINGTON-SITE-ASSESSMENT-KT7.pdf>

CONSULTEES

7.4. OCC HIGHWAYS (summary): **Objection** for the following reasons:

- *The visibility to the north from the site access junction is inadequate.*
- *A Stage 1 Road Safety Audit has not been submitted.*
- *The swept path of the Refuse Collection Vehicle overhangs private driveways and a hedge*

It must be questionable whether Kirtlington is a sustainable location for development on the basis of the bus service provision. Access to Tackley station is via an unlit, unsurfaced bridleway and is unlikely to be attractive to anyone except the most determined. It cannot be relied on as a realistic transport choice for the majority of development residents.

7.5. PLANNING POLICY (summary): **Objection**. *Kirtlington is one of the more sustainable villages in the District and Policy Villages 2 does make provision for some development in such villages. However, there is no pressing need for additional housing at the present time.*

The application site, if developed, will extend the current built up limits of Kirtlington into open countryside. The site is not allocated for development in the development plan. The proposals are therefore contrary to saved policies C8 and H18.

The Council is currently undertaking a review of the adopted Cherwell Local Plan 2011-2031 (Part 1) which will cover the period to 2040. This plan and any future reviews to Mid Cherwell Neighbourhood Plan is the appropriate context for identifying the quantum and location of future residential development in the rural areas.

7.6. THE GARDENS TRUST (summary): **Strong Objection**. *Notwithstanding the reduction in the number of dwellings proposed from 20 to 14, the GT has significant concerns and re-iterates its previous consultation response. The GT objects in principle to the Proposal and considers it to cause a high end of less than substantial harm to the Grade I registered park and garden (RPG) of Kirtlington Park, listed buildings adjacent to the site and the Kirtlington Conservation Area as set out in the Council's response to the 21/03786/PREAPP on the site.*

The (scheme) proposes built form on a currently undeveloped green space which is part of the grade II Registered landscape surrounding Kirtlington Park. It is also at the

entrance to the conservation area and is considered to harm the character of the settlement and visual amenities of the area.

The Countryside Design Summary SPD states that “development in historic parklands or within their setting must maintain or enhance the specific character, which defines this part of the District.” The proposed development does not maintain or enhance the parkland character as it introduces a sizeable new residential cul-de-sac on land that is currently open. The development would have a very limited connection with the village and would appear as a separate housing estate on the edge of the village. It would not be well integrated into the fabric of the built environment of Kirtlington and this would be emphasised by the siting behind the park wall and a mature tree belt. It would therefore fail to comply with Para 206 of the NPPF 2021 in Research - Conserve – Campaign terms of better revealing and enhancing the significance, character or appearance of the conservation area and its setting and would not amount to sustainable development.

The applicant has indicated a pedestrian gate in the wall giving access into the site. The breaching of the wall, albeit limited, we consider has an adverse impact on the character and appearance of the Conservation Area and the setting of the Park.

There are significant concerns, in principle, with the development of a key area of (previously undeveloped) green space in the registered parkland and at the entrance to the conservation area. It is considered that the proposed development would be harmful to the RPG, listed buildings adjacent to the site and the Kirtlington Conservation Area as set out above and in the previous application, 17/01688/OUT. The GT strongly object to the application.

- 7.7. THAMES VALLEY POLICE (summary): **Recommend refusal.** *I have fundamental concerns with the proposals in terms of the potential for crime and disorder, and for that reason I am unable to support this application. Unfortunately, I cannot see a way for my objection to be addressed without significant redesign of the scheme. I recommend this application be refused.*

Development layout – Reason for objection

I have fundamental concerns with the proposed layout of this development, where almost every dwelling is at greatly elevated risk of high impact crime such as burglary, due to having all vulnerable boundaries exposed and easily accessible whilst lacking surveillance. Particularly to the south, the road leading through the development between plots 9-14 is completely devoid of surveillance, whilst rear access and parking is completely exposed. This layout will be highly attractive to opportunistic and more organised crime, where offenders will be able to operate without fear of being seen or caught. The very excessively permeable layout of this development provides ample opportunities to escape, with multiple options for an offender.

I am unable to recommend remediation to this concern, as complete redesign is the only solution I can envisage.

Surveillance – Reason for objection

The south of the development in particular is very vulnerable to crime due to the street being completely devoid of any surveillance at ground floor level. Corner plots have blank gable ends, removing important surveillance opportunities across the development. The footpath to the east around plot 9 is very vulnerable to crime and anti-social behaviour (ASB) due to being enclosed behind a wall lacking surveillance. Plot 9 is exceptionally vulnerable due to this lack of surveillance.

I am unable to recommend remediation to this concern, as complete redesign is the only solution I can envisage.

Defensible Space

There should be clear definition between the public and private realm. Where the public or semi-private realm adjoins private areas of the development, defensible space and planting to a depth of at least 1m should be provided. This will provide an area of 'stand-off', marking the change of ownership and therefore the acceptable activity that is associated with it, protecting the privacy and security of occupants whilst reducing the potential for neighbourhood disputes. This is particularly important where parking areas or public spaces abut vulnerable side or rear residential boundaries. Side and rear boundaries are the entry point for the majority of residential burglaries and should be secured within a secure perimeter block wherever possible to prevent easy access. Consideration should be given to specifying thorny species where defensible planting is required to provide additional physical protection to boundaries.

Cycle storage

I am unable to locate details of secure cycle storage for each plot across this development.

Rear access routes

I am unable to identify garden gate locations on plans provided.

Public Open Space (POS)

POS to the east significantly lacks surveillance and will be very vulnerable to crime and ASB. It may also be vulnerable to unauthorised encampments where it is accessible from the highway. Areas of POS/play should be designed and located to incorporate a high level of natural surveillance from neighbouring dwellings.

Excessive permeability – Reason for objection

Footpaths around the development, completely encircling several dwellings, create significant excessive permeability which will be highly beneficial to offenders committing crime or ASB. Excessive permeability introduces anonymity, making it difficult for residents to identify and challenge who should or shouldn't be there. Residential areas should primarily be formed of secure perimeter blocks, which protects the vulnerable side and rear boundaries of properties. Clear and direct routes through developments are important, but they should not undermine the defensible space of neighbourhoods:

- *Maximising Legitimate Activity - Perhaps the most important factor is that footpaths should have a high level of legitimate usage, deterring those intent on crime and anti-social behaviour with the risk of being observed or challenged. To ensure pathways become well used, they must lead to places people need to go, preventing desire lines through the development likely to undermine private space. They should promote a feeling of being a 'safe route' encouraging their usage further. Providing an excessive number of footpaths through developments dilutes activity and usage levels, leaving them vulnerable to crime and anti-social behaviour and providing a network of escape routes for an offender.*
- *Maximising Surveillance - To help deter those intent on crime and anti-social behaviour footpaths should in general terms be as straight and as wide as possible, maximising surveillance along the route and allowing people to pass with ease. Landscaping should support clear sightlines and take into consideration surveillance from the residential dwellings (incorporating visibility from active rooms) to the public realm and vice versa.*
- *Identifying Primary Routes – It is important that primary pedestrian routes required to navigate the site on a day to day basis are identified. These must be located where sufficient surveillance and lighting can support them to deter crime and anti-*

social behaviour and provide the user with a sense of security. Those located where lighting or surveillance will be restricted due to ecology and landscaping requirements should be avoidable if the user wishes.

I am unable to recommend remediation to this concern, as complete redesign is the only solution I can envisage.

Cycle routes

The principles in terms of the footpaths and pedestrian access should also be applied to cycle ways. Providing dual purpose routes (pedestrian/cyclist) would be beneficial in attracting higher levels of legitimate activity and casual surveillance and should be promoted.

Lighting

Lighting throughout the development should meet the general standards of BS5489-1:2020. Lighting plans should be provided which should set out how this standard will be achieved not only on adopted highways, but also un-adopted roads and parking courts. Note above, parking court lighting should be included within the plan, and be fed from the main highway. Bollard lighting is not an appropriate lighting method and should be avoided. Not only can they be damaged by reversing vehicles, more critically they do not provide sufficient light at the right height to aid facial recognition and reduce the fear of crime. It also does not deter crime and antisocial behaviour.

7.8. CDC LANDSCAPE SERVICES (summary): **No objection.**

Design and Access Statement (DAS): Acceptable if the DAS included a proposal for a play area as required under CDC Policy LSC 11. Otherwise, I agree with the reasoning put forward in the DAS.

Landscape and Visual Technical Note (LVTN): A comprehensive LVTN. The chosen viewpoints for assessment are thought to be representative experiences and conclusions and generally acceptable: I agree that there will be 'no change' for visual receptors in relation to viewpoints (VP) 6, 7, and 9 – refer below. I also agree with appraisal/judgement of all visual receptor experiences VP 1 - 5, VP 8, 10 and 11 in the LVTN.

The LVTN's landscape character and sensitivity appraisal / judgements are also acceptable.

The development will be experienced by Akeman Street roadside receptors VP 10. Paragraph 3.11, LVTN states: 'The magnitude of change upon close range views from the road is considered to low adverse, upon a medium sensitivity receptor resulting in moderate adverse significance of effect'. However, I support the LVTN proposal – refer to 3.2 / second arrowed point.

Paragraph 3.2, LVTN states: 'Creation of a robust mixed native landscape buffer to the northern boundary which will help to filter views of the Proposed Development from Akeman street and the approach into the village, as well as creating green infrastructure links across the Site...'

The site, a paddock, is contained by the surrounding tree belts which separates the sensitive landscape Grade II listed Kirtlington Park to the east. The highly sensitive visual receptors on the PRow / VP 6, 7, 8 and 9 indicate that the site is completely screened in winter and summer (when the trees are in full leaf). However, because of the high sensitivity of the visual receptor and Kirtlington Park itself, there should be a consideration of the construction impacts (noise / cranes) within the LVTN which, because of the scale of the development, will in my opinion be low adverse and

temporary in nature. It is therefore important to protect these tree belts to ensure continuous screening, and potential open space for tree planting within the application red line, under BS5837, to ensure root zones are protected during the course of construction. The Woodland Management Plan (August 2023) purports to manage the woodland in the most appropriate way, but this will have to be considered by our arboricultural team.

Jersey Cottage residential receptors will experience a degree of harm with the loss of amenity when the paddock is developed. However, this should be offset with the retention of the attractive woodland surrounding the site, with dwellings and property boundaries of high quality build in local stone (as per Materials Plan), play provision and open space landscaping, supported by a comprehensive landscape and ecology management plan (inclusive of the Woodland Management Plan).

Policy BSC 11: Local Standards of Provision - Outdoor Recreation: 14 units triggers a LAP. Minimum 100 sq. m equipped activity zone set within a landscaped area designed to provide a safe area for alternative play for children aged 2 to 6. The size of the equipped activity zone should be a minimum of 10m x 10 m.

The Landscape Strategy Plan (December 2022): Indicates appropriately designed areas and quantity of open space, subject of course to the inclusion of a designed LAP, all informed by the development context.

Open Space Typologies and Commuted Sums: If informal open space / landscape typologies / play areas are to be transferred to CDC for long term management and maintenance, commuted sums / rates covering a 15 year landscape maintenance will apply.

The legal (Land Registry ready) informal open space adoption boundary (red edge) to be confirmed by the developer at the earliest stage for our consideration of adjoining land ownerships.

7.9. CDC CONSERVATION (in full): **Objection.**

Impact on Kirtlington Conservation Area

The site is considered to make a positive contribution to the Conservation Area, and although it is located behind the existing boundary wall it still retains its open nature. Historically this area was the 'Town Green' or common land before being incorporated into the parkland associated with Kirtlington Park. It is accepted that views across the site are largely interrupted by the existing wall but the openness and the parkland beyond can still be perceived and appreciated. Furthermore, the building pattern in this part of the village is that of a linear built form with the dwellings facing on to and running along Heyford Road on the west side. As a consequence of this the introduction of housing on this area of land is considered to result in a detrimental incursion of built form that protrudes into the space and does not follow the existing built form. It is considered that development here will detract from the character and alter the appearance of the Conservation Area in this part of the village in a harmful way.

The design of the proposed dwellings is however considered to largely reflect the building type in the local area, but the layout proposed is not considered to be in keeping.

The proposed repairs to the wall are welcomed and the minor changes to the wall are not in themselves considered to be unacceptably harmful, however the heritage benefits of the repairs are not considered to outweigh the harm that would result from the development here.

Kirtlington Park Registered Park and Garden (Grade II)

The site is included in the designation for the Registered Park and Garden. It is acknowledged that this parcel of land is to some extent distinct from the designed landscape of the historic parkland and was enclosed more recently as a result of the changes in ownership of the village common land (Town Green). The tree belts and planting help to illustrate this and provide a buffer between the site and the designed parkland. However, it is considered that the site still makes a contribution to the Registered Park and Garden through its open and agricultural character, and it also demonstrates how land ownership contributed to the development and evolution of the village. The introduction of residential building here is considered to be harmful to the character of the Registered Park and Garden as a result of the reduction of the openness and resulting changes to the rural character.

Listed Buildings

Kirtlington Park House (Grade I) – The main building (and its associated stables and buildings) sits within the centre of the Registered Park and Garden. Therefore, it is a notable distance away from the application site. Although it is argued that the site does contribute to the wider setting of these Listed Buildings it is not considered that dwellings here would directly result in harm to the significance of Kirtlington Park House (including stables and dairy) through development within its setting.

Home Farm (Grade II) – The application site is considered to have a direct relationship with Home Farm as the farmhouse and associated buildings have historically and continue to have an agricultural setting consistent with their historic purpose and function. Therefore it is considered that by introducing dwellings the agricultural character of the setting will be unacceptably altered. As the setting is considered to contribute to the significance of Home Farm the proposal will unavoidably result in some harm to significance as a consequence of development within the setting.

Foxtownsend Cottages and other Listed Buildings on Heyford Road - The application site is considered to contribute to the rural character of the village. Therefore, development opposite these Listed Buildings, although behind the existing wall, will inevitably alter the character of the street scene and this part of the village. Consequently, the setting of these Listed Buildings will be changed. It is accepted that change does not necessarily equate to harm, and it is noted that the buildings further to the south and further away from the site will be less affected. But it is considered that the proposal will result in a minor adverse impact to the setting which it is agreed would result in negligible harm to the significance of these Listed Buildings.

Park Lodge (Grade II) - Because of the location of this Listed Building and the existing landscape features it is agreed that the proposed development would have limited or no impact on this Heritage Asset.

Overall, it is considered that the proposed development on this site will result in varying levels of less than substantial harm to the Heritage Assets.

7.10. CDC ECOLOGY (in full): **Conditional no objection.**

With regard to the above application, an acceptable ecological appraisal has been submitted to assess impacts. There are few protected species issues on site which cannot be mitigated through a conditioned CEMP for biodiversity. The Landscape Strategy Plan proposes created and retained habitats of benefit to wildlife – although I note this looks very different to the Proposed Site Layout plans (also with the D & A statement) which suggests most of the woodland to the South to be absent.

A biodiversity impact assessment metric has been carried out which is stated as demonstrating a good level of net gain on site above the 10% net gain we currently

seek. However, the applicant has not submitted the actual metric and it is difficult to read the pasted tables in the net gain report.

A full LEMP with a habitat management and monitoring plan will need to be conditioned which must contain an updated (full) metric and mapping in order for the relevant habitat conditions to be monitored and enforced. This should also include full details of biodiversity enhancements (with locations and types) of bat/bird/invertebrate bricks. There needs to be clear monitoring periods with an indication of the stages at which monitoring against the targets of the metric will be carried out (for all habitats) and the results submitted to the LPA.

The woodland management plan is generally satisfactory however there are some parts which do not align with the information on access within the ecological appraisal. The woodland management plan mentions footpaths through two compartments of the woodland, the appraisal only through one. The ecological appraisal suggests there will be fencing along the footpaths to deter access into the wider woodland, but the woodland management plan does not mention these. Post and rail fences will not prevent access by dogs off leads for example, which could impact the proposed condition the wood will be able to achieve. Access management needs to be made clear within the LEMP.

7.11. OCC LOCAL LEAD FLOOD AUTHORITY (LLFA) (summary): **No objection, subject to conditions.**

7.12. OCC EDUCATION (summary): **No objection, subject to S106 contributions.**

7.13. OCC ARCHAEOLOGY (summary): **No archaeological constraints.** *The proposals outlined would not appear to have an invasive impact upon any known archaeological sites or features.*

7.14. OCC WASTE MANAGEMENT (summary): **No objection, subject to S106 contributions.**

7.15. CDC STRATEGIC HOUSING (summary): **Support this proposal in principle.**

7.16. CDC ENVIRONMENTAL PROTECTION (summary): **No objection in principle.**

7.17. CDC LAND DRAINAGE (in full): **No comments or objections in principle** subject to the comments of the LLFA.

7.18. CDC BUILDING CONTROL (in full): **No comment on the principle.**

7.19. CDC RECREATION AND LEISURE (summary): **No comment, subject to S106 contributions** towards enhancements and improvements at Kirtlington Village Hall, sports pitches in the locality and Kidlington and Gosford Leisure Centre.

7.20. HISTORIC ENGLAND (summary): **No comment.** *Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application.*

7.21. THAMES WATER (summary): **No objection.**

7.22. CPRE OXFORDSHIRE: No response received.

7.23. SOUTHERN GAS NETWORK: No response received.

7.24. CDC ARBORICULTURE: No response received.

7.25. CDC PUBLIC ART: No response received.

7.26. CDC WASTE AND RECYCLING: No response received.

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 2015)

- PSD1 - Presumption in Favour of Sustainable Development
- BSC1 - District-Wide Housing Distribution
- BSC3 - Affordable Housing
- BSC4 - Housing Mix
- BSC10 - Open Space, Outdoor Sport & Recreation Provision
- BSC11 - Local Standards of Provision - Outdoor Recreation
- BSC12 - Indoor Sport, Recreation and Community Facilities
- ESD1 - Mitigating and Adapting to Climate Change
- ESD3 - Sustainable Construction
- ESD5 - Renewable Energy
- ESD6 - Sustainable Flood Risk Management
- ESD7 - Sustainable Drainage Systems (SuDS)
- ESD8 - Water Resources
- ESD10 - Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 - Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment
- ESD17 - Green Infrastructure
- SLE4 - Improved Transport and Connections
- INF1 - Infrastructure
- Villages 1 - Village Categorisation
- Villages 2 - Distributing Growth across the Rural Areas
- Villages 4 - Meeting the Need for Open Space, Sport and Recreation

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18 - New dwellings in the countryside
- C8 - Sporadic development in the open countryside
- C23 - Retention of features in a Conservation Area
- C28 - Layout, design and external appearance of new development
- C30 - Design of new residential development
- C33 - Protection of important gaps of undeveloped land
- ENV12 - Development on contaminated land
- TR1 - Transportation funding

MID-CHERWELL NEIGHBOURHOOD PLAN

8.3. Under Section 38 of the Planning and Compulsory Purchase Act 2004, a Neighbourhood Plan that has been approved at referendum also forms part of the statutory development plan for the area. In this case, the application site falls within the Mid Cherwell Neighbourhood Plan and the following Policies of the Neighbourhood Plan are considered relevant:

- PD1 - Development at Category A Villages
- PD4 - Protection of important views and vistas
- PD5 - Building and site design
- PD6 - Control of light pollution
- PH1 - Open housing market schemes
- PH3 - Adaptable housing
- PH5 - Parking, garaging and waste storage provision

8.4. Other Material Planning Considerations

- The Planning (Listed Buildings and Conservation Areas) Act 1990
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- CABE Design and Access Statements - How to write, read and use them
- UK Police Service - Secured by Design Development Guides
- Historic England: 'The Setting of Heritage Assets' Good Practice Advice in Planning Note 3
- The Gardens Trust - The Planning System in England and the Protection of Historic Parks and Gardens – Guidance for Local Planning Authorities
- Catesby Estates Ltd and SSCLG v Steer [2018] EWCA Civ 1697
- Bedford Borough Council v SSCLG & Nuon UK Ltd [2013] EWHC 2847
- Planning Inspectorate appeal decision for Finmere PINS ref 3309489 / LPA ref 21/03066/OUT, October 2023
- CDC Countryside Design Summary SPD
- CDC Residential Design Guide SPD
- CDC Developer Contributions SPD
- CDC Kirtlington Conservation Area Appraisal
- Cherwell Community Planning Partnership Sustainable Community Strategy
- DfT and DCMS Manual for Streets
- OCC Parking Standards for New Development
- UK Green Building Council: 'Embodied Carbon: Developing a Client Brief' Hirigoyen, Julie et al.
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 ("HRA")
- Equalities Act 2010 ("EA")

9. APPRAISAL

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

- Principle of development and sustainability of the location
- Heritage impact
- Landscape matters
- Designing out crime and conflicts with the heritage status of the site
- Design, layout and residential amenity
- Highway Safety
- Flood Risk and Drainage

- Ecology impact
- Agricultural Land Classification
- Affordable Housing
- Sustainable Construction and Energy Efficiency
- Noise, Contamination and Air Quality
- Impact on Local Infrastructure

Principle of Development and sustainability of the location

Development Plan

- 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 this area comprises the adopted Cherwell Local Plan 2011-2031 Part 1 (CLP 2015) and the saved policies of the Cherwell Local Plan 1996 (CLP 1996).
- 9.3. Policy PSD 1 of the CLP 2015 states that when considering development proposals, the Council will take a proactive approach to reflect the presumption in favour of sustainable development contained in the National Planning Policy Framework. The policy continues by stating that planning applications that accord with the policies in this Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise. Paragraph B88 of the CLP 2015 also highlights that by focusing development in and around the towns of Bicester and Banbury we aim to ensure that the housing growth which the District needs only takes place in the locations that are most sustainable and most capable of absorbing this new growth.
- 9.4. In terms of affordable housing provision Policy BSC3 of the CLP 2015 states that 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. The Policy continues by stating that should the promoters of development consider that individual proposals would be unviable with the above requirements, 'open-book' financial analysis of proposed developments will be expected so that an in-house economic viability assessment can be undertaken. Where it is agreed that an external economic viability assessment is required, the cost shall be met by the promoter. Where development is demonstrated to be unviable with the above requirements, further negotiations will take place. These negotiations will include consideration of: the mix and type of housing, the split between social rented and intermediate housing, the availability of social housing grant/funding and the percentage of affordable housing to be provided.
- 9.5. Policy BSC1 of the CLP 2015 states that Cherwell District will deliver a wide choice of high-quality homes by providing for 22,840 additional dwellings between 1 April 2011 and 31 March 2031. 1,106 completions were recorded between 2011 and 2014 leaving 21,734 homes to be provided between 2014 and 2031.
- 9.6. Policy BSC4 of the CLP 2015, which covers the issue of providing housing mix on new development, states that new residential development will be expected to provide a mix of homes to meet current and expected future requirements in the interests of meeting housing need and creating socially mixed and inclusive communities.

- 9.7. The CLP 2015 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. In February 2023 Cherwell District Council approved a review of their adopted planning policies carried out under regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012. This review concluded that, due to the publication of more recent evidence on Housing Needs to support the preparation of the Cherwell Local Plan Review 2040, policies including Policy BSC1 are “out of date”. Paragraph 74 and footnote 39 of the NPPF requires that in such circumstances the 5 Year supply of land should be calculated using the government’s standard methodology.
- 9.9. The use of the standard method has the effect of reducing the annualised requirement from 1,142 dpa to 742 dpa for the purposes of calculating the land supply and consequently Cherwell District Council is able to demonstrate a 5.4 year supply.
- 9.10. The Council’s housing supply position of 5.4 years means that the relevant development plan policies are up to date and that development proposals must be assessed in accordance with the Development Plan. Whilst the NPPF states the requirement to have a 5-year supply is not a cap on development, the housing policies of the Development Plan are the starting point for decision taking and are afforded full weight. However, the delivery of homes across the district remains an important material consideration in the planning balance.
- 9.11. In terms of Category A villages, the 2021 AMR shows that 749 dwellings are either completed or under construction on sites with planning permission for 10+ dwellings at Category A villages. During 2020/21 there were 88 dwellings completed at Category A villages that contribute to the Policy Villages 2 requirement of 750 dwellings. There are also 246 dwellings that are under construction from the supply of permitted sites and are likely to be delivered in the short term. Between 1 April 2014 and 31 March 2021 there were a total of 503 net housing completions on the Policy Villages 2 sites which is an average of 71 homes per year. The AMR continues by highlighting that Since 1 April 2014 a total of 1,062 dwellings have been identified for Page 163 meeting the Policy Villages 2 requirement of 750 dwellings. These are included in the Housing Delivery Monitor in Appendix 2. Policy Villages 2 requirement has already been exceeded by 312 dwellings when considering the planning permissions and identified sites without planning permission in the above (749+287+26).
- 9.12. On the 31st of March 2022, there were at least 916 dwellings either completed or under construction on sites with planning permission for 10+ dwellings at Category A villages, comprising 706 dwellings completed and at least 210 under construction. During 2021/22 there were 203 dwellings completed at Category A villages that contribute to the Policy Villages 2 requirement of 750 dwellings. There are permissions for a further 161 dwellings on 6no sites that, on the 31st of March 2022, had yet to commence construction.
- 9.13. Section E of the CLP 2015 concerns the monitoring and delivery of the Local Plan. Paragraph E.19 states that if the supply of deliverable housing land drops to five years or below and where the Council is unable to rectify this within the next monitoring year there may be a need for the early release of sites identified within this strategy or the release of additional land. This will be informed by annual reviews of the Strategic

Housing Land Availability. In this instance the most recent published review undertaken by the Council is the Housing & Economic Land Availability Assessment (HELAA) (February 2018). This application site was not reviewed in the HELAA and therefore not considered.

- 9.14. Policy Villages 1 of the CLP 2015 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. Kirtlington is a Category A village.
- 9.15. In order to meet the area's housing needs, Policy Villages 2 of the CLP 2015 states that a total of 750 homes will be delivered at Category A villages. This will be in addition to the rural allowance for small site 'windfalls' and planning permissions for 10 or more dwellings as at 31 March 2014. This Policy notes that sites will be identified through the preparation of the Local Plan Part 2, through the preparation of the Neighbourhood Plan where applicable, and through the determination of applications for planning permission.
- 9.16. Policy Villages 2 continues by setting out that when identifying and considering sites, particular regard will be given to the following criteria:
- Whether the land has been previously developed land or is of less environmental value
 - Whether significant adverse impact on heritage and wildlife assets could be avoided
 - Whether development would contribute in enhancing the built environment
 - Whether best and most versatile agricultural land could be avoided
 - Whether significant adverse landscape impacts could be avoided
 - Whether satisfactory vehicular and pedestrian access/egress could be provided
 - Whether the site is well located to services and facilities
 - Whether necessary infrastructure could be provided
 - Whether land considered for allocation is deliverable now or whether there is a reasonable prospect that it could be developed within the plan period
 - Whether land the subject of an application for planning permission could be delivered within the next five years; and
 - Whether development would have an adverse impact on flood risk.
- 9.17. Policy PD1 of the Mid-Cherwell Neighbourhood Plan (MCNP) states that in Category A Villages such as Kirtlington, infill, conversion and minor development will be supported in principle within the settlement limits (as defined in the Neighbourhood Plan). It states that residential development proposals outside the settlement areas in such villages must have regard to the following criteria:
- Be immediately adjacent to the village
 - Not be best and most versatile agricultural land and previously developed land is particularly likely to be acceptable
 - Conserve and, wherever possible, enhance the landscape
 - Conserve and, where possible, enhance heritage assets
 - Not give rise to coalescence with other nearby settlements
- 9.18. Policy PD1 of the MCNP goes onto state that the *'total indicative number of additional dwellings permitted during the plan period either within the settlement area of those villages, or adjacent to them, shall be approximately 17 for Kirtlington.'*

Comments made by the MCNP Forum

- 9.19. The MCNP Forum state in their response to consultation that it would be inappropriate to refuse this application in the knowledge that the emerging NP Review is undertaking assessments of all eligible sites in Kirtlington and that it does not support development on this site.
- 9.20. The PPG on Neighbourhood Planning (updated 2020) states, at Paragraph 106, that there are three types of modification which can be made to a neighbourhood plan. The process will depend on the degree of change which the modification involves:
- *Minor (non-material), which may include correcting errors.*
 - *Material modifications which do not change the nature of the plan would require examination but not a referendum. This might, for example, entail the addition of a design code that builds on a pre-existing design policy, or the addition of a site or sites which, subject to the decision of an independent examiner, are not so significant or substantial as to change the nature of the plan.*
 - *Material modifications which do change the nature of the plan would require examination and a referendum. This might, for example, involve allocating significant new sites for development.*
- 9.21. Paragraph 86 of the PPG confirms that whether the modifications change the nature of the plan is a decision for the independent examiner. The Examiner considers representations and statements made including, inter alia, by the local planning authority. The MCNP Forum's proposal to declare their preferred location for development of the 17 dwellings appears to be a material modification which changes the nature of the plan because it involves the allocation of a significant new site for development. That change is considered to be significant because it is for the majority of the allocation proposed for Kirtlington.
- 9.22. Paragraph 50 of the NPPF states that *Refusal of planning permission on grounds of prematurity will seldom be justified... – in the case of a neighbourhood plan – before the end of the local planning authority publicity period on the draft plan. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process.*
- 9.23. The Planning Policy Team has advised that they would not expect the end of the Local Planning Authority publicity period to be until at least July 2024. As such, the Council has no alternative but to give the following responses to the two requests of the MCNP Forum:
- To delay a decision cannot be granted because it would conflict with Paragraph 50 of the NPPF. The application has been submitted for determination and the LPA is obliged to do so in a timely manner.
 - To give preference to this site does not have a legitimacy in the democratic process and the preference of the MCNP Forum has to be disregarded.

Assessment

- 9.24. Policy Villages 1 of the CLP 2015 designates Kirtlington as a 'service village' where minor development, infilling and conversions are permissible. Supporting text to the policy states that infilling refers to the development of a small gap in an otherwise continuous built-up frontage. Under such a definition the proposal would not constitute infilling. Further supporting text states that in assessing whether proposals constitute acceptable 'minor development', regard will be given to the size of the village and the

level of service provision, the site's context within the existing built environment, whether it is in keeping with the character and form of the village, its local landscape setting and careful consideration of the appropriate scale of development.

- 9.25. The site is outside of the village envelope / boundary as defined in the MCNP.
- 9.26. Kirtlington is identified in the CLP 2015 as a sustainable location for meeting defined housing requirements – one of 23 Category A villages intended to provide 750 homes from 2014 to 2031 (Policy Villages 2). The Local Plan reached that conclusion having undertaken a comparative assessment and categorisation of all the district's villages.
- 9.27. The requirement of Policy Villages 2 to provide 750 homes at Category A villages is monitored in the Council's AMR. Table 39 of the AMR shows that, on 31st March 2021, 749 dwellings had either been completed or were under construction on sites with planning permission. Para. 5.159 of the AMR records that between 1 April 2014 and 31 March 2021 a total of 1,062 dwellings have been identified for meeting the Policy Villages 2 requirement of 750 dwellings.
- 9.28. On the 31st of March 2022, there were at least 916 dwellings either completed or under construction on sites with planning permission for 10+ dwellings at Category A villages, comprising 706 dwellings completed and at least 210 under construction, and there are now at least 1,077 dwellings that have been identified for meeting the Policy Villages 2 requirement.
- 9.29. The Tappers Farm (Bodicote) 2019 appeal decision (which applied the same logic as the Launton appeal decision a year earlier) provides a useful steer as to how the decision taker should apply Policy Villages 2. At the time of the Tappers Farm decision, 271 dwellings had been delivered at Category A villages under Policy Villages 2, with a further 425 under construction. The Tappers Farm Inspector stated, *"There will undoubtedly be a point where there will be a situation that will result in the material increase over the 750 dwellings figure and at that time there will be some planning harm arising from the figure being exceeded, for example harm to the overall locational strategy of new housing in the district. There is no substantive evidence before me to demonstrate that this is the case in this appeal. Clearly, when considering any subsequent schemes however, this matter will need to be carefully scrutinised."*
- 9.30. As noted above, as of 31 March 2022, 706 dwellings had been delivered at Category A villages under Policy Villages 2 and at least a further 210 dwellings were under construction, with another 161 with the benefit of planning permission that has not started. Given these numbers and the trajectory of annual completions including 203 completed in 2021-22, it is highly likely that the total number of dwellings delivered under Policy Villages 2 has now exceeded the 750 set out in the policy.
- 9.31. The total of 750 will by now have been met is a material consideration when assessing further applications for 'major' developments at Category A villages. However, the provision of housing represents a significant positive material consideration to weigh in the planning balance and contributes to meeting the overall district housing figures which is needed to be delivered.
- 9.32. However, while the proposal may be considered contrary to the Council's housing strategy, the following factors lead to a conclusion that in this instance the principle of development should be considered acceptable.
- 9.33. Like the numbers in Policy BSC1, limited weight is applied to the figure of 750 set out in Policy Villages 2 given that the Council's housing need is now informed by the standard method rather than the numbers set out in the CLP 2015.

- 9.34. The proposal would provide a mix of residential units in terms of size, type and tenure, and the proposal thus complies with Policy BSC4 of the CLP 2015.
- 9.35. Returning to the MCNP, Policy PD1 identifies an indicative level of growth for Kirtlington over the plan period which is a potential conflict between PD1 and Policy Villages 2 of the CLP 2015. Planning Practice Guidance (PPG) and Section 38(5) of the Planning and Compulsory Purchase Act 2004 states that, where policy in a development plan, for an area, conflicts with another policy in the development plan, the conflict should be resolved in favour of the policy which is contained in the last document to be adopted, approved or published. In this case this would be the MCNP. Therefore, MCNP Policy PD1 is considered to take precedent over Policy Villages 2 – although the criteria of Policy Villages 2 are still considered to be relevant to the consideration of the application.
- 9.36. Several concerns have been raised by neighbours over the general sustainability of village. The village of Kirtlington has relatively limited services and facilities. There is also limited public transport to and from the village resulting in residents being highly reliant on the private car. Whilst these concerns are valid, the MCNP clearly indicates a level of growth for the village and as outlined above, the proposal is considered to accord with the MCNP's housing strategy. There has been no significant change in services to the village since the adoption of the MCNP which would justify taking a different position on this issue.
- 9.37. The basis of the planning system is plan-led and therefore the aforesaid concerns regarding the general sustainability of the village do not outweigh the provision of the MCNP in regard to the scale of growth appropriate for the village. It should also be noted that the proposed development is likely to help support the existing services and facilities in the village to some extent, although that is hard to quantify.
- 9.38. Policy PD1 goes onto provide several criteria to which applications for development outside the settlement must have particular regard. It is important to note that the policy has no requirement for all these criteria to be met although they clearly are material considerations in undertaking the planning balance. These include:
- The site should be immediately adjacent to the settlement area
 - The site should not be the best and most versatile agricultural land (BMV)
 - The development should conserve and, where possible, enhance the landscape
 - The development should conserve and, where possible, enhance the special interest, character and appearance of the conservation areas and the significance of other heritage assets.
- 9.39. The proposal complies with the first criteria, but, in respect of the second criteria, half of it is on Grade 2 BMV land. The proposal therefore conflicts with this and the other listed criteria. The conflicts are outlined elsewhere in this report and need to be considered in the planning balance.

Conclusion

- 9.40. The most relevant policy to consider the principle of the application against is Policy PD1 of the MCNP. The scale of growth complies with Policy PD1 and therefore accords with the growth strategy outlined in the Neighbourhood Plan. Subject to other material considerations, the principle of this level of growth at Kirtlington is therefore considered to be acceptable.

Heritage Impact

Legislative and policy context

- 9.41. The site is within Kirtlington Park's Grade II listed Registered Park and Garden. Because of its location within the RPG, it is within the curtilage of Grade I listed Kirtlington Park. It also adjoins Grade II listed Home Farm. It is within Kirtlington Conservation Area.
- 9.42. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that, in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
- 9.43. Likewise, Section 66 of the same Act states that: *In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.* Therefore, significant weight must be given to these matters in the assessment of this planning application.
- 9.44. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 193 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.*
- 9.45. Policy ESD15 of the CLP 2015 echoes this guidance and Policy ESD13 supplements it by stating that *proposals will not be permitted if they would cause undue visual intrusion into the open countryside, be inconsistent with local character, harm the setting of settlements, buildings, structures or other local landmark features, or harm the historic value of the landscape.*
- 9.46. Policy PD4 of the MCNP states *development proposals must demonstrate sensitivity to the important views and vistas described within Kirtlington Conservation Area Appraisal.* Page 33 of the Appraisal highlights *six views which frame and characterise the character and appearance of the Conservation Area.* This includes *views east into Kirtlington Park from Heyford Road.* Page 39 shows a single view on the Visual Analysis plan, identified in the key as a positive view. This is therefore open to interpretation but the use of the plural when listing *views east* is interpreted as being from more than one point.
- 9.47. Policy PD4 also states that *applications for development in or adjacent to a Conservation Area must demonstrate... that the proposal causes as little harm as possible and that any harm is outweighed by the benefits of the proposal. The development should not harm the Conservation Area and its setting, other heritage assets, or historic street and village views and longer distance vistas.*

Assessment

- 9.48. The Parish Council has referred to the status of the RPG as non-statutory, as defined by the MAGIC (Multi-Agency Geographic Information for the Countryside) Map. They appear to assume that this means that it does not carry the weight of other statutory designations. The acronym stands for multi-agency geographic information for the countryside and was established by DEFRA. RPGs were first provided with a statutory designation in the National Heritage Act 1983. The parkland has been in the Conservation Area since 1998 and about one-quarter of it (c.300ha out of a total parkland of about c.1200ha), including this part of the parkland, has had the status of a Registered Park and Garden since May 1995. Historic England's Regional Inspector for Historic Buildings and Areas advises that MAGIC's information is

probably referring to RPGs as non-statutory because its designation brings no additional statutory controls. They proceed to advise of their designated status and required considerations within the context of the NPPF and UK planning law.

9.49. The Landscape and Visual Technical Note (Aspect Landscape Planning, August 2023) (LVTN) submitted in support of the application states:

9.50. In Paragraph 4.3: *The scale, form, pattern and urban grain of the proposed scheme will be comparable to recent developments to the west of Heyford Road including Akeman Spinney as well as within the immediate localised context and, as such, would not be out of character. It is therefore considered that the design, scale, form and layout of the proposal would form a logical complement to the existing scale, pattern and character of development within Kirtlington and would not be out of context.*

9.51. In Paragraph 4.4: *It is considered that the proposed development will not give rise to any significant adverse landscape or visual effects in the longer term, or that [it] would significantly and demonstrably outweigh the benefits of the scheme.*

9.52. In Paragraph 4.5: *...the integrity of the receiving landscape character will be preserved.*

9.53. These paragraphs fail to acknowledge the difference in heritage settings between developments to the west of Heyford Road and this proposal to the east of Heyford Road. The housing development referred to is neither in the RPG nor in Kirtlington Conservation Area at:

9.54. Akeman Spinney (five dwellings, with two fronting the road and three in a cul-de-sac to the rear)

9.55. Akeman Close (four dwellings in a cul-de-sac, to the rear of a pre-existing dwelling called Mallory), and

9.56. Foxtowns Green (four dwellings in a cul-de-sac, to the rear of Grade II listed 3-4 Foxtownsend Cottages)

9.57. The application site is in both. Both Akeman Spinney and Akeman Close are also not as close to listed buildings as those proposed at the application site. It is clearly a fallacious argument to suggest that the integrity of the receiving landscape character, a Grade II parkland within a Conservation Area, will be preserved following the development of residential cul-de-sacs within it. This statement is rejected.

9.58. In the Court of Appeal case *Catesby Estates Ltd and SSCLG v Steer* [2018] EWCA Civ 1697, Mrs Justice Lang DBE identified an error of law when conflating harm to heritage assets with the assessment of visual or landscape harm. The judgement stated that the setting of heritage assets is not necessarily confined to visual or physical impact, but that other considerations are potentially relevant.

9.59. Historic England's publication 'The Setting of Heritage Assets' Good Practice Advice in Planning Note 3 (GPA3) provides a non-exhaustive checklist of potential attributes of a setting that may help to elucidate its contribution to significance. These include the following experiences of an asset:

Assessment 2

- Views from, towards, through, across and including the asset;
- Noise, vibration and other nuisances
- Tranquillity

- Diurnal changes
- Sense of enclosure, seclusion, intimacy or privacy
- Land use

Assessment 3

- Prominence, dominance or conspicuousness
- Distraction from the asset
- Visual permeability
- Introduction of movement or activity
- Change to spaces
- Change to skyline
- Change to general character (eg urbanising)
- Lighting effects and light spill
- Changes to permeability, accessibility including traffic, road junctions, and car parking
- Changes to ownership arrangements, including fragmentation
- Permanence and reversibility

9.60. All of those attributes listed above from GPA3 would be negatively impacted by the proposed development. This application would include the introduction of domesticity and the associated paraphernalia of residential living. Aspects of the proposal such as the introduction of the houses themselves, the enclosure of land to form private gardens, the need for a play area as required by Policy BSC11 of the CLP(2015), vehicle movement, the Thames Valley Police request for additions to the pedestrian routes with dual purpose cycle routes and, in the dark, car lights within the parkland, lighting from the houses and possibly from street lighting, and an intensity of use on a permanent basis within what is currently open grazing land, would all contribute to a detrimental impact. This is in addition to the visual harm that would occur through its prominent location mainly from Akeman Street but also from Heyford Road, and to the landscape harm that would occur through converting grazing land within an RPG to a housing estate.

9.61. It is of note that the booklet submitted by its author: *Capability Brown and Kirtlington Park: A History and Guide* states on page 21 that, in order to shield the mansion from view until just before arrival, Capability Brown proposed a thickly planted roundel to be grown about three hundred yards north-west of the house. Page 28 of the document states that Capability Brown's plans did not extend to the outer edge of the north park. However, the thick belt of planting on the eastern boundary of the site has the same effect, albeit from a greater distance of about 700 metres. Page 24 states: As Brown intended, the prospects from each part of the house were different: from some parts, long, empty views; from others, closer and fuller plantations, flowers and shrubs. Whilst it would appear that not the whole of the parkland has been designed by Capability Brown, the extent of the parkland that he designed is not determinative of whether or not the parkland has the status of a heritage asset.

9.62. The Heritage Statement (HS) (Bidwells, August 2023) seeks to emphasise that the land subject of this application is not part of the original Capability Brown landscape, by separating out that which it considers is part of his designed landscape and that which is outside of it. Whilst paragraph 4.7 states that a review of historic maps cannot be considered to be definitive, paragraphs 4.5 and 4.6 indicate that this site was previously included within a Town Green. This is acknowledged and it is perhaps the case that too much emphasis is being placed on the importance of the Capability Brown part of the landscape by those objecting to the scheme. However, the HS does not give enough emphasis to the fact that the application site is, in itself, part of a heritage asset, being within the Grade II RPG and within Kirtlington Conservation Area. Paragraphs 9.9, 9.10 and 9.11 refer to the application site's location as a buffer zone between the built form and the Park, with Paragraph 9.11 referring to it *providing*

a clear sense of separation between the RPG and the built form. It is not understood why the HS attempts to define the application site as lying outside of the RPG when it is within it. This undermines the status of the HS findings. It concludes on the impacts in paragraph 10.3: *'the site in its current form either detracts or makes a neutral contribution to the setting of the identified assets'*. This cannot be accepted for fields which form part of an RPG and Conservation Area. Use of the word 'setting', presumably in the context of listed buildings, including the Grade I house and immediately adjoining Grade II Home Farm, again fails to acknowledge that the site is, in itself, a heritage asset.

- 9.63. The response received from The Gardens Trust includes a strong objection. A past response from The Gardens Trust was to application reference 17/01688/OUT for twenty dwellings within the same site edged red but with an indicative layout that was further from Home Farm but closer to the tree belts to the south and west. It expanded further by stating that there did not appear to have been any exploration of whether other sites not affecting a designated heritage asset were considered, and why a less sensitive area was not chosen in preference. This continues to be the case.
- 9.64. The Parish Council's response lists a set of points which it would like the Council to consider in its consideration of this application. These include removal of one of the houses closest to Home Farm; its replacement with open space; alterations to the visibility and pedestrian access / egress points; offset of the houses proposed to the north, to allow the planting of a 10-15m wide tree belt to provide robust screening from the north and offsetting of the houses on the western and southern boundaries, to protect existing trees.
- 9.65. These requests would require fundamental alterations to the scheme's layout and that altered scheme is not the one before the Council for determination. As such, whilst the Parish Council supports the scheme subject to these caveats, it has to be assumed that there would be an objection in the absence of compliance with them. This is unclear because it has not been expressly stated in their response.

Conclusion

- 9.66. Much of the text in the HS discusses effects on setting. For example, paragraph 9.13 of the HS considers that aspects of harm relating to effects on setting do not directly infer impacts on significance. It does little to acknowledge that the application site itself is within two designated heritage assets or to assess whether the Town Green was of importance and the reasons why it was incorporated into the parkland and the RPG. Notwithstanding these shortcomings, it is pertinent to consider impact on settings. The Glossary to the NPPF (Annex 2) defines the setting of a heritage asset. The evolution of the parkland could be argued to have changed, including at that which is the subject of this planning application. The Glossary states: *Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance, or may be neutral.* As existing, the land makes a positive contribution to the heritage assets within which it sits and for which it forms a setting.
- 9.67. Paragraphs 9.18 and 10.6 state levels of harm to various nearby listed buildings ranging from nil to less than substantial. For the Conservation Area and RPG, the impact is defined as minor / moderate adverse and the resulting harm as less than substantial. Paragraph 10.7 of the HS refers to the High Court case of Bedford Borough Council v SSCLG & Nuon UK Ltd [2013] EWHC 2847, which considers the range of levels relevant to 'less than substantial' harm. It states that this ranges from 'negligible' to 'something approaching demolition or destruction'. The HS concludes that there would be low-medium levels of less than substantial harm in terms of the NPPF. By contrast, whilst The Gardens Trust considers that there would be less than

substantial harm, it would be at the high end. The Council's Conservation Officer considers that harm would occur at a range of levels within less than substantial harm, for the range of assets that would be impacted.

- 9.68. The differences of opinion are not going to reach an agreement. From a planning perspective, the HS bases much of its analysis on the impact on settings rather than on the identified heritage assets within which the application site sits. The opposing ends of the harm both result in harm. Paragraph 199 of the NPPF states that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of the level of harm. Paragraph 202 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.
- 9.69. Optimum viable use (OVU) does not need to be the most economically viable option, but it must be the use that is likely to cause the least harm to the significance of the asset. This should be not only through necessary initial changes but also as a result of significant wear and tear and likely future changes. Whether or not RPGs are subject to OVU is debatable. If they are, the OVU of a park must be to retain it as a park in order to protect its status, in the same way that the OVU of a listed building would be to retain the building. The proposal seeks to undermine the status of this land rather than protect it and insufficient evidence has been forwarded to conclude that the use of the land for a housing development would comprise its OVU.
- 9.70. As such, public benefits associated with the building of a housing development within its curtilage, particularly the provision of affordable housing, could not outweigh the harm caused and the proposal would not be consistent with its conservation. As proposed, the contribution would not preserve or enhance the heritage assets in which it sits and those for which it forms a setting; it would result in harm, and the contribution to those assets would be negative.

Landscape matters

Policy context

- 9.71. The policy parameters when considering the landscape impact of the proposal are inextricably linked with the heritage status addressed in the preceding paragraphs due to the location of the application site within the RPG and Conservation Area.
- 9.72. In addition to these parameters, Paragraph 8 of the NPPF seeks to protect and enhance our natural and historic environment. Paragraph 130 states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding landscape setting. Section 15 of the NPPF seeks to conserve and enhance the natural environment and, within it, Paragraph 174 seeks to protect and enhance valued landscapes and recognise the intrinsic character and beauty of the countryside.
- 9.73. Policy ESD13 of the CLP 2015 seeks to protect and enhance local landscapes. It states that opportunities will be sought to secure the enhancement of the character and appearance of the landscape through the restoration, management or enhancement of existing landscapes and features. It continues that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not be permitted if they cause undue visual intrusion into the open countryside, harm the setting of landmark features or harm the historic value of the landscape.

- 9.74. The intention of Policy H18 of the CLP 1996 is to ensure that the countryside is protected from sporadic development.
- 9.75. Paragraph 2.2(i) of the Countryside Design Summary SPD states that protection given by a woodland location should be used but only where this does not undermine the character of these existing landscape features. Paragraph 2.2(ii) states that development in historic parklands must maintain or enhance the specific character.
- 9.76. Policy PD1 of the MCNP states that proposed development should conserve and, where possible, enhance the landscape.

Assessment

- 9.77. The Council's Landscape Officer has stated agreement with the LVTN assessments. Whether or not there can be Case Officer agreement with this statement is of minor significance compared to the fact that paragraph 2.50 of the LVTN refers to publicly accessible viewpoints as a *fair representation of the site's visibility within the localised and wider visual environment*. *Specific regard has been given to the public rights of way (PROW) which traverse the RPG*. It fails to acknowledge that the Park owners provide permissive access to their land, including to the land immediately to the east and south-east of the application site. The viewpoints chosen therefore do not reflect the reality of visibility, whether by the Park's owners or by residents of the Parish. As such, the LVTN is flawed because it does not provide a robust and comprehensive assessment of the impact of the development on the RPG.
- 9.78. Similarly, its statement in paragraph 3.11, that there will be no effect on important views identified by the MCNP and Conservation Area Appraisal, contradicts the statement in Policy PD4 of the MCNP and page 33 of the Appraisal. Its conclusion in paragraph 3.13, that there will be no change to views from the south and west, is again flawed and has to be challenged.
- 9.79. The Council's Landscape Officer supports the proposal in respect of its impact from the north, Akeman Street, subject to compliance with paragraph 3.2(1(2)) of the LVTN. This seeks to create *a robust mixed native landscape buffer to the northern boundary which will help to filter views from Akeman Street*. The Landscape Strategy Plan proposes ornamental trees, hedges and shrub planting. This would not be sufficiently robust such as to provide an adequate screen. It is not known whether space exists within the site edged red to provide a more comprehensive buffer.
- 9.80. The main road through Kirtlington is about 0.8 miles in length when measured from the first dwelling to the north, to the last dwelling to the south before Corner Farm. It is described as a linear settlement in the Conservation Area Appraisal, and the importance of this is repeated by objectors to the scheme. Heyford Road strongly defines this type of settlement layout, albeit with development that is one-sided at the northern end, with the boundary wall to Kirtlington Park being on the opposite side. The distinctiveness of the street scene is of a central section that has back-of-pavement cottages, with many of them being terraced, and two village greens, one at each end of the central section of the village. This contributes to the overall character. The linear definition, whilst visible on the main street, clearly hasn't precluded other development which is not keeping to the linear form: about 50% of the village does not follow this linear pattern. The proposal does not seek to cause harm to the established central spine of the village. As such, objections to the proposed development cannot be sustained on this basis.
- 9.81. The recurrent themes within each of the national, district and neighbourhood policies and the SPD are ones of protection and enhancement of the landscape. Because the proposal is in sensitive landscapes: RPG, Conservation Area and countryside, the

development of fifteen houses cannot result in the protection of the landscape nor its enhancement.

Conclusion

- 9.82. The proposal conflicts with each of the landscape policies. It fails to conserve and enhance the landscape at each level, from countryside to that which has a protected status through formal designation. It also fails to recognise the intrinsic character and beauty of the landscape for its own sake. As such, this forms an objection to the scheme which has significant weight.

Designing out crime and conflicts with the heritage and countryside status of the site

Policy context

- 9.83. Paragraph 92(b) of the NPPF states *'planning policies and decisions should aim to achieve healthy, inclusive and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.'*
- 9.84. Paragraph 130(f) of the NPPF states *'planning policies and decisions should ensure that developments create places that are safe, inclusive and accessible... where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.'*
- 9.85. Section A.22 of CLP 2015 and CDC's Sustainable Community Strategy (SCS) seek to have thriving communities where everyone feels safe in their homes and welcome in their neighbourhoods. The SCS states that anti-social behaviour is a key concern of residents. Addressing residents' perceptions of crime and delivering low levels of crime and anti-social behaviour are priorities.
- 9.86. Policy ESD15 of the CLP 2015 seeks new development which delivers safe places to live and work. Paragraph B.265 expands on this, looking to ensure that new developments are safe places to live, work and visit through design standards by using tools such as 'secured by design'.
- 9.87. CABE's 'Design & Access Statements (DAS) - How to write, read and use them' requires a DAS to address crime and disorder. It states that a DAS should demonstrate how development can create accessible and safe environments, including addressing crime and disorder and the fear of crime.

Assessment

- 9.88. Thames Valley Police's Designing Out Crime Officer does not feel that the Design and Access Statement (DAS) adequately addresses crime and disorder. Whilst the DAS states safety and security is considered with active frontages, he states that this does not permeate through to the plans provided.

Conclusion

- 9.89. The opinions of the Designing Out Crime Officer carry significant weight. It is noted that he states within the Consultees section of this report that complete redesign is the only solution that he can envisage for three aspects of his consideration: development layout, issues relating to surveillance, and excessive permeability.
- 9.90. Conflict therefore exists between the aspirations of the designers of the layout and Thames Valley Police. Whilst the overall layout has been configured as spacious, with plentiful green spaces and tree protection, into which it has been tucked, to

attempt to mitigate against the impact of the proposal on the RPG, the consequence is a layout with multiple flaws from a designing out crime perspective and, thus, conflict with the NPPF and CLP 2015.

Design, layout and residential amenity

Policy context

- 9.91. Paragraph 126 of the NPPF states *good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities*. Paragraph 73 refers to significant extensions to existing villages. It emphasises the importance of appropriate tools such as design guides.
- 9.92. The National Design Guide (2021) details ten characteristics which work together to create character, a sense of community and to address climate issues. Together, they all contribute towards the cross-cutting themes for good design set out in the NPPF. One characteristic deals with uses of land, particularly mixed and integrated.
- 9.93. Policy ESD15 of the CLP 2015 states that *new development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to and work in. They should contribute positively to an area's character and identity, and respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Buildings should be configured to create clearly defined active public frontages. They should consider matters of privacy and outlook*.
- 9.94. Section 6.3 of Cherwell Residential Design Guide SPD (2018) states the importance of 'public fronts, private backs'. It states that the elevation of buildings fronting the public realm should be 'active', to encourage human interaction and passive surveillance of the public realm. It continues: *Layouts which confuse the relationship between fronts and backs or emphasise property access from the rear should be avoided*.
- 9.95. Policy PD6 of the MCNP seeks to control light pollution and sets criteria for the installation of all external lighting, including that proposals should not have a detrimental effect on the amenity of surrounding occupiers nor a significant adverse impact on the character of a village and its setting, or of the wider countryside.

Assessment

- 9.96. The proposal seeks to face outward by having three houses in the scheme fronting Heyford Road. However, their distance from the road is so significant that there would be no interaction between the houses or their occupiers and the existing village dwellings and occupiers. Passive surveillance to and from Heyford Road would fail to exist.
- 9.97. In order for the other private sector houses in the southern half of the development to benefit from the parkland into which they are being set, they too are designed to face outward, looking at the park. The consequence for the layout is that all houses have been designed to turn their backs to the new access road, with enclosed gardens facing the road, which are proposed to comprise 1.8m high stone walls and fences. This results in an oppressive form of design and layout for the road user, whether driver or pedestrian, producing a feeling of being both trapped in to the road space and locked out of the development.
- 9.98. Good design includes the need for passive surveillance. The scheme would fail to achieve this, with the consequences as defined by the Thames Valley Police response

to consultation. Good design would avoid blind corners and would incorporate longer sightlines; movement networks should be enticing. This layout has three blind corners between seven houses and would fail to give that sense of security for the user. Good design would also ensure that the visible environment was well-maintained in perpetuity. This layout would fail to ensure that that could be achieved.

- 9.99. The absence of pavements on the southern half of the scheme is compensated for by the provision of a semi-circular path across the remaining field, encircling the front of the dwellings. This presents multiple problems. It does not represent the desire line of the quickest method of getting from A to B. It does not show how this would be navigated in dark hours: lighting would perpetuate the visual pollution of the parkland environment. It does not present a perceived safe pedestrian route for the user as identified by Thames Valley Police. The quickest, best lit and possibly safest route for the pedestrian would be along the road. This has no pavements and would only bring a visitor to back doors and enclosed gardens, and to conflicts with vehicular traffic.
- 9.100. Cherwell Residential Design Guide seeks to avoid dead spaces which are provided by blank building facades, garages, integral parking and bin stores. It states in Section 6.3 that these are not appropriate in the public realm. It also states in Section 6.6 that dead frontages must not be used as vista stoppers. The southern half of the proposal in particular conflicts with the design guide due to the layout providing each of these aspects that deaden the vistas.
- 9.101. Layouts should encourage social cohesion and seamless integration between those dwellings which are for affordable tenures and those which are for private market sale. This would align with the policy guidance of the National Design Guide (2021), in which Section U2 Paragraph 116 seeks that, where different tenures are provided, they are well-integrated to create tenure-neutral homes and spaces. There is a distinct north-south layout on this site which does not achieve that aim.
- 9.102. Design and materials are considered in Section 2 of the DAS. Section 4 considers that the design and form of the proposed properties are in keeping with the character and plot density of this part of the village. The design and materials are appropriate for a typical housing development, but they do not comprise a development of sufficiently high design and quality to complement the historic asset within and adjoining which it is located. As an example, whilst small areas of green roof are shown on the Materials Plan for four of the dwellings, the quantum proposed is minimal and no reference is made to them in any other submitted documentation other than when quoting Council policy. As such, the proposal conflicts with Policy ESD15 of the CLP 2015.
- 9.103. Private garden spaces have been minimised on some plots to an extent which is unacceptable because it results in overdevelopment of the plots. Plots 4, 6, 7, 8, 9, 12 and 13 have rear garden sizes which are disproportionately small to their house sizes, restricted by factors including the existing treescape, the desire to protect the setting of Home Farm, a Grade II listed building, the engineering needs of the access roads and access to parking and rear gardens. In particular, the dwellings at Plots 7 and 8 (two-bed dwellings) have rear garden depths of about 7.6m for the full width of their gardens and Plots 12 (four-bed dwelling) and 13 (three-bed dwelling) are at about 9.9m but not for the full width of the dwelling. This conflicts with Section 6 of CDC's Residential Design Guide which states that the amount of garden and outdoor space should be appropriate to the size of the property, with an expectation that larger properties will be located within larger plots with larger gardens, reflecting the likely needs of larger families.

Conclusion

- 9.104. Good design should incorporate a sense of belonging and a social right to a space as key principles of integration both within the proposed development and between the proposal and existing parts of the village. The proposal has been contrived to fit the parkland space to the detriment of future users, those users being not only the occupiers of the dwellings but also their visitors. The detail of the scheme fails to comply with policy guidance at local and national level, to which objection is raised.

Highway Safety

Policy Context

- 9.105. Policy ESD15 of the CLP 2015 states that: "New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions." Policy SLE4 states that: "All development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported." The NPPF advises that development should provide safe and suitable access for all and development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or where the residual cumulative impacts are severe.

Assessment

- 9.106. The Highway Authority has made the following comments in relation to visibility when exiting the site:
- 9.107. *Access is proposed onto Lince Lane (A4095) immediately north of the existing 20mph speed limit sign, on the outside of a curve. The speed limit to the south is 50mph. The transport statement says there is a visibility splay of 2.4m x 120m to the south, with the sight line crossing the opposite verge on the inside of the curve. However, having revisited the site, we find this is not achievable, due to the gradient and vegetation. Visibility measured along the edge of the northbound carriageway is between 90 and 100m. Therefore, the drawing is misleading in our opinion, and this is a reason for objection.*
- 9.108. *While no speed survey data has been provided with this application, a speed survey carried out for the previous application ref 22/03049/OUT (for fewer dwellings using the same access) used equipment placed immediately south of the 20mph sign, i.e. very close to the access, in January 2023. This showed 85th percentile speeds of 34mph northbound. To be confident that visibility to the south is adequate, given that drivers heading north could be braking from 50mph close to the speed limit sign, a speed survey should be carried out further to the south, I would suggest close to the limit of visibility of around 90m.*
- 9.109. *The drawing should be resubmitted showing the achievable visibility splays, together with the speed survey data and a Stage 1 Road Safety Audit (RSA1) in accordance with GG119 (5.46.1) A Designers Response should accompany the RSA1 with the Overseeing Organisation agreeing and signing off the RSA.*
- 9.110. *The application proposes extending the speed limit further south. Officers would support this but given the rural nature of the road on the approach, it may be more appropriate to provide a 30mph buffer between the 50mph and 20mph limit. This would be subject to a separate statutory consultation, which could be carried out as part of the S278 process. (A S278 agreement would be required for the construction of the access).*

Conclusion

9.111. The proposal therefore conflicts with highway safety standards and, in the absence of adequate supporting information, improvements to the access could result in additional demolition of the boundary wall being required, to the detriment of the status of the RPG and Conservation Area.

Flood Risk and Drainage

Policy context

9.112. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 16 states that *when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*

- o *within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
- o *the development is appropriately flood resistant and resilient;*
- o *it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
- o *any residual risk can be safely managed; and*
- o *safe access and escape routes are included where appropriate, as part of an agreed emergency plan.*

9.113. Paragraph 169 of the NPPF continues by stating that *major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:*

- o *take account of advice from the lead local flood authority;*
- o *have appropriate proposed minimum operational standards;*
- o *have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and*
- o *where possible, provide multifunctional benefits.*

9.114. 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.

9.115. 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

9.116. A Drainage Strategy (Price and Myers, July 2023) has been submitted to support the application. The Environment Agency's flood maps indicate that the site is located in Flood Zone 1 and therefore at lowest risk from flooding.

9.117. The Local Lead Flood Authority (LLFA) raise no objection subject to detailed conditions regarding to a SuDS and surface water drainage scheme and future maintenance.

Conclusion

9.118. The proposals are considered to be acceptable in flood risk and drainage terms in accordance with the requirements of Policies ESD6 and ESD7 of the CLP 2015 and the Policy Villages 2 criterion relating to “*whether the proposals would have an adverse impact on flood risk*”.

Ecology Impact

Legislative context

9.119. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments.

Policy Context

9.120. 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.

9.121. 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.

9.122. 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.

9.123. This policy is 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.

9.124. 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

- 9.125. Having regard to the Local Planning Authority's duty under the Conservation of Habitats and Species Regulations 2017, the lack of a suitable protected species/ecological survey and proposed mitigation strategy means that it has not been demonstrated that the proposal will not cause harm to any protected species or its habitat which is reasonably likely to be present and affected by the development. The proposal is therefore contrary to Policy ESD10 of the CLP 2031 Part 1, advice contained in the PPG and Natural England's Standing Advice, and section 15 of the National Planning Policy Framework.
- 9.126. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, 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.

Sustainable construction and energy efficiency

Policy context

- 9.127. Paragraph 8 of the NPPF looks to secure net gains across each objective: economic, social and environmental. Policy ESD 3 of CLP (2015) specifically deals with sustainable construction, including that 'All new residential development will be expected to incorporate sustainable design and construction technology to achieve zero carbon development through a combination of fabric energy efficiency, carbon compliance and allowable solutions in line with Government policy.'
- 9.128. Policy ESD1 of the CLP 2015 states that measures should be taken to mitigate the impact of development within the District on climate change. It also seeks that the design of developments reduces carbon emissions and use resources more efficiently, including water.
- 9.129. Policy ESD2 of the CLP 2015 seeks to achieve carbon emission reductions and to reduce energy use, in particular by the use of sustainable design and construction measures. The reference to allowable solutions in Policy ESD2 and 'zero carbon' are no longer being pursued by the government so are no longer relevant.
- 9.130. Policy ESD3 encourages sustainable construction methods.
- 9.131. Policy ESD 5 supports renewable and low carbon energy provision provided that there is no unacceptable adverse impact on, inter alia, visual impacts on local landscapes and the historic environment. Policy ESD 15 of the CLP (2015) deals with the character of the built and historic environment. It repeats the provisions listed above for ESD 5, by seeking to incorporate energy efficient design and sustainable construction techniques, whilst ensuring that the aesthetic implications of green technology are appropriate to the context.

Assessment

- 9.132. In paragraph 1.1.3 of the agent's Sustainability Statement (Environmental Economics, July 2023), the proposed development is designed to achieve carbon emissions in line with Part L 2021 through the adoption of good fabric performance and employment of low and zero carbon technologies. It states that this therefore complies with Policy ESD3 of the CLP (2015). This is not a convincing conclusion: Policy ESD3 requires the achievement of a higher bar than 'low and zero', of zero

carbon development. The proposal therefore fails to comply with Policy ESD3 of the CLP (2015).

- 9.133. Paragraph 3.2.3 of the submission states an aim to use timber that is procured sustainably, independently accredited by either the FSC or PEFC schemes. As an aim this is commendable, but it is not stated as a commitment. The UK Green Building Council estimate that around 30% of total greenhouse gas emissions arising from the built environment are embodied emissions, meaning that they are generated by the extraction, transport and manufacturing processes that happen before a building is first occupied. The terminology for sourcing these materials in Paragraph 3.2.3 is non-specific and therefore cannot be given any weight.
- 9.134. A solar hot water system is referred to in Appendix E as a means of heating stored water by either evacuated tubes or flat plate collectors, both of which are typically a roof-based system. Their provision would result in a visual conflict between policies seeking to mitigate against climate change and those seeking to preserve and enhance the character of the existing heritage assets and their environments.
- 9.135. Paragraph 6.84 of the Planning Statement refers to the achievement of high environmental standards. Paragraph 6.86 refers to renewable technologies and how, overall, the proposed measures should achieve at least a 31% reduction in carbon emissions, ensuring compliance with Part L of the building regulations.

Agricultural Land Classification

- 9.136. The PPG Guide to Assessing Development Proposals on Agricultural Land (2021) states that the best and most versatile (BMV) agricultural land is graded 1 to 3a.
- 9.137. Paragraph 174 of the PPG states that planning decisions should contribute to and enhance the natural and local environment by recognising the wider benefits from natural capital and ecosystem services, including the economic and other benefits of the best and most versatile agricultural land.
- 9.138. Policy Villages 2 of the CLP 2015 states that particular regard will be given to whether best and most versatile agricultural land could be avoided.
- 9.139. Policy PD1 of the MCNP states that development should not be on the best and most versatile agricultural land.
- 9.140. The northern part of the application site is Grade 2 BMV land. The southern half is Grade 5. The proposal therefore conflicts with national and local policy.

Noise, Contamination and Air Quality

- 9.141. The NPPF advises that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to, or being put at unacceptable risk from, or being adversely affected by unacceptable levels of noise pollution or air pollution. Saved Policy ENV1 seeks to ensure development is appropriate in terms of contamination and does not give rise to unacceptable levels of pollution.
- 9.142. The Council's Environmental Protection Officer has reviewed the application and is satisfied that acceptable internal and external noise environments can be achieved on the site subject to detailed mitigation which would be secured by condition. Prior to the commencement of the development, a Construction Environment Management Plan (CEMP), which shall include details of the measures to be taken to ensure construction works do not adversely affect residential properties on, adjacent to or

surrounding the site, together with details of the consultation and communication to be carried out with local residents, shall be submitted to and approved in writing by the Local Planning Authority. This would be secured by condition.

9.143. In relation to land contamination, the Environmental Protection Officer has raised no objection subject to 'unexpected contamination'. A condition is also proposed for a lighting scheme. The Environmental Protection Officer has made no comments in relation to air quality or odour.

9.144. No objection is therefore raised, subject to the imposition of proposed conditions, to matters relating to noise, contamination and lighting.

Impact on Local Infrastructure

Policy Context

9.145. 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."*

9.146. Policy BSC11 of the CLP 2015 states that: *"Development proposals will be required to contribute to the provision of open space, sport and recreation, together with secure arrangements for its management and maintenance. The amount, type and form of open space will be determined having regard to the nature and size of development proposed and the community needs generated by it. Provision should usually be made on site in accordance with the minimum standards of provision set out in 'Local Standards of Provision – Outdoor Recreation'. Where this is not possible or appropriate, a financial contribution towards suitable new provision or enhancement of existing facilities off site will be sought, secured through a legal agreement."* Policy BSD12 requires new development to contribute to indoor sport, recreation and community facilities.

9.147. The Developer Contributions Supplementary Planning Document (SPD) sets out the position in respect of requiring financial and onsite 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

9.148. 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:

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

9.149. 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.

Conclusion

9.150. Having regard to the above and in the absence of a signed S106 agreement, the proposal fails to comply with the policy provisions of the CLP 2015.

10. PLANNING BALANCE AND CONCLUSION

10.1. Paragraph 4.14 of the Planning Statement lists the following benefits of the scheme that they state weigh in favour of the application.

- *It is a windfall site that can be delivered relatively quickly to contribute toward the outstanding housing requirement of Kirtlington;*
- *The proposal will fulfil a local housing need for those properties most in demand in the district;*
- *It will deliver affordable housing at a village location where such housing provision has not come forward in recent times;*
- *The site is in a sustainable location and the scale of development is entirely suitable and accords with the existing pattern of development;*
- *The site is well screened and public views of the development will be heavily filtered by the existing and proposed landscaping;*
- *Its development will support the vitality and viability of existing village facilities;*
- *It will deliver a positive biodiversity net gain through onsite enhancements to encourage wider biodiversity interest;*
- *It will deliver heritage benefits through the repair and reinstatement of the boundary wall of the listed parkland;*
- *It will secure a management plan for the existing woodland which will ensure it is positively managed and improved in the long term; and*
- *It will fulfil the social, environmental and economic objectives of sustainable development.*

10.2. 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. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise. The NPPF supports this position and adds that proposals that accord with an up-to-date development plan should be approved and those which do not should normally be refused unless outweighed by other material considerations.

10.3. There are elements of the Planning Statement's assessment which are agreed, particularly those relating to housing need and the maintenance of vitality of existing village facilities. However, the sequential approach to determining whether or not the housing is in the right place to address those needs is not addressed within this submission. The Council considers that it is in the wrong place. The speed of delivery of the site has not been advised. The owners of the wall have a legal obligation to

maintain it, as part of the RPG and curtilage to Kirtlington Park listed building. The weight to be given to those benefits can therefore only be neutral.

- 10.4. Harm is identified in the Planning Statement. At Paragraph 6.22 and 7.7, it is defined in broad terms, as limited. Paragraph 6.44 considers that landscape impact is limited to the site. These assessments are disputed.
- 10.5. Paragraph 8 of the NPPF seeks to achieve three overarching objectives which are mutually supportive and secure net gains across each one of the three.
- 10.6. For the economic objective, the land is not in the right place at the right time to support growth, due to its location within the RPG in particular, and also within the Conservation Area, in close proximity to Home Farm (Grade II) and in the curtilage of Kirtlington Park (Grade I).
- 10.7. For the social objective, the proposal fails to provide a well-designed, beautiful and safe place.
- 10.8. For the environmental objective, the proposal fails to protect and enhance our natural, built and historic environment. It does not make effective use of land, whose best use is as parkland within the RPG and Conservation Area.
- 10.9. Each of these failings result in harm and the weight to be attributed to that harm is very substantial, significantly outweighing the weight to be given to the benefits of the proposed scheme. The proposal therefore does not represent sustainable development.

10. RECOMMENDATION

REFUSAL FOR THE REASONS SET OUT BELOW:

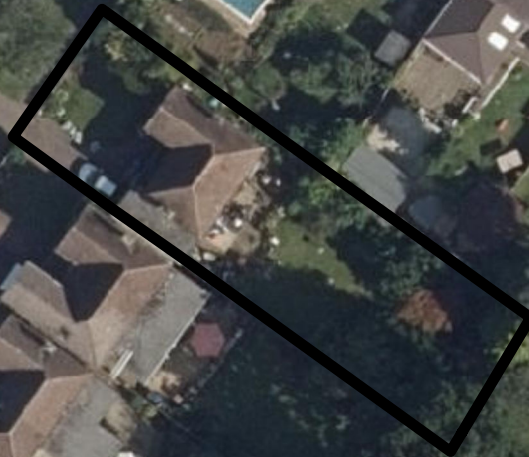
- 1 By virtue of its siting, scale, size, layout and form the proposal fails to respect the traditional settlement pattern of Kirtlington, extending beyond its built up limits to the east into countryside and into Kirtlington Park, resulting in an incongruous, contrived and inappropriate form of cul-de-sac development which would relate poorly to the remainder of the village, and cause demonstrable harm to the rural character and setting of the village and visual amenities of the area. Therefore, the proposal is contrary to Policies PSD1, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies C8, C28 and C30 of the Cherwell Local Plan 1996, Policies PD1, PD4, PD5 and PD6 of the Mid-Cherwell Neighbourhood Plan 2018-2031, Government guidance contained within the National Planning Policy Framework and the National Design Guide.
- 2 The proposed development would, by reason of its location, scale, layout and form, cause considerable harm to the character and significance of the heritage assets of Kirtlington Conservation Area and the Grade II Registered Park and Garden at Kirtlington Park, and would cause unacceptable harm to the settings of nearby listed buildings, in particular Grade II Home Farm, Grade II 3-4 Foxtownsend Cottages and the wider setting of Grade I Kirtlington Park house. Therefore, the proposal is contrary to Policies PSD1, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, PD1 of the Mid-Cherwell Neighbourhood Plan 2018-2031 and Government advice within the National Planning Policy Framework.

- 3 The proposed development would fail to achieve a satisfactory standard of development on highway grounds due to the inability to achieve a satisfactory visibility splay to the south, resulting in the potential for highway safety to be compromised. It would therefore conflict with Policies PSD1, ESD15 and SLE4 of the Cherwell Local Plan 2011-2031, PD1 of the Mid-Cherwell Neighbourhood Plan 2018-2031 and Government guidance contained within the National Planning Policy Framework.
- 4 The proposed development fails to address the need for a safe layout to prevent the risk of crime and disorder occurring. The proposal would therefore fail to comply with Policies PSD1, ESD15 and BSC11 of the Cherwell Local Plan 2011-2031 Part 1, Policy PD5 of the Mid-Cherwell Neighbourhood Plan 2018-2031 and Government guidance contained within the National Planning Policy Framework.
- 5 The proposed development would occur on land classified as Grade 2 BMV agricultural land, in conflict with the NPPF, Policy Villages 2 of the Cherwell Local Plan 2011-2031 Part 1 and PD1 of the of the Mid-Cherwell Neighbourhood Plan 2018-2031 and Government guidance contained within the National Planning Policy Framework.
- 6 In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure contributions required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and workers and contrary to Policy INF1 of the Cherwell Local Plan 2011-2031 Part 1, CDC's Planning Obligations SPD 2018 and Government guidance within the National Planning Policy Framework.

CASE OFFICER: Jeanette Davey

Agenda Item 11
23/02/21/F

1 Elizabeth Rise
Banbury
OX16 9LZ



N

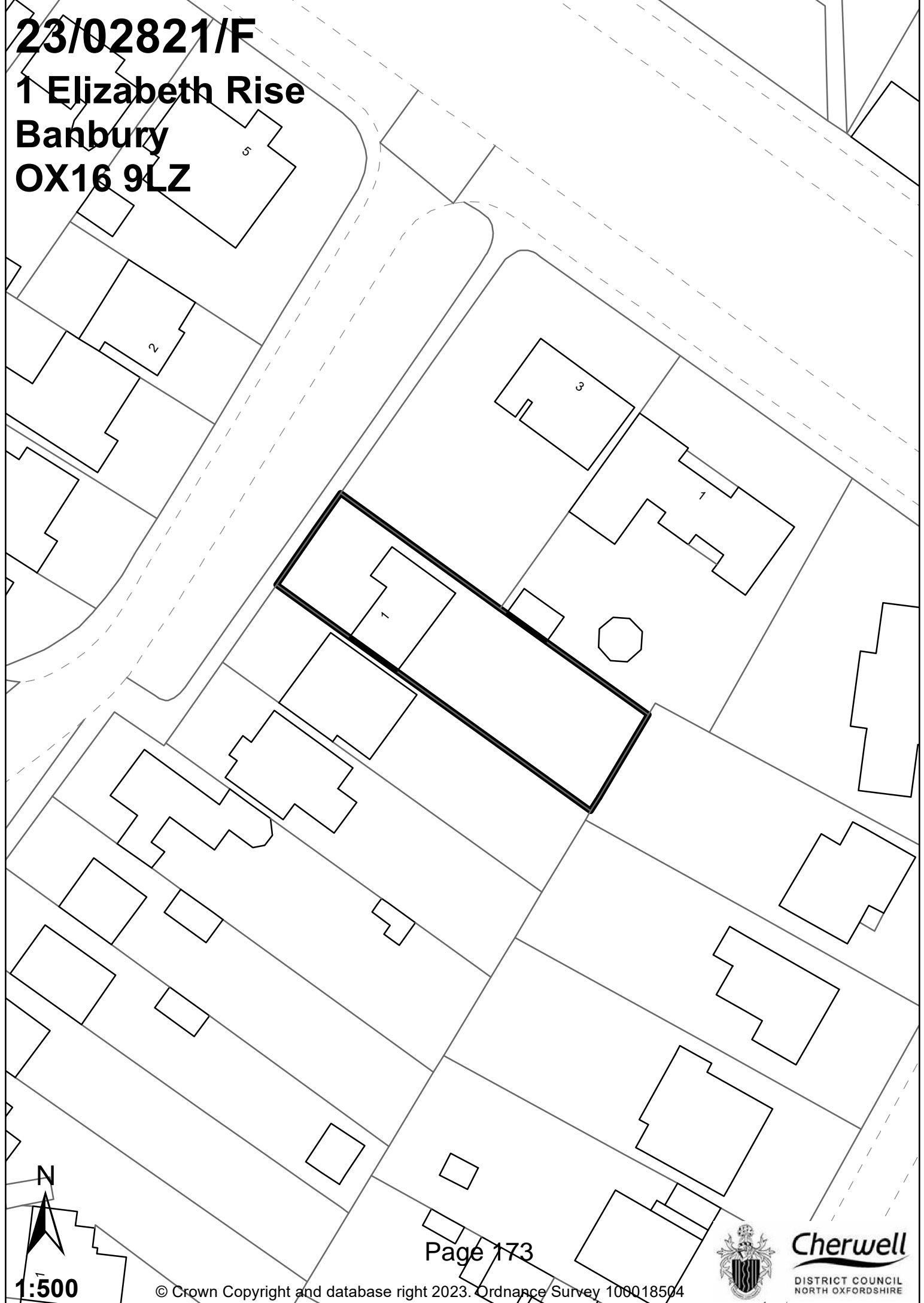


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23/02821/F

**1 Elizabeth Rise
Banbury
OX16 9LZ**



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1:500



23/02821/F

**1 Elizabeth Rise
Banbury
OX16 9LZ**



ELIZABETH RISE

N

1:700

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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Case Officer: Nathanael Stock

Applicant: Mr G Ashraf

Proposal: Single and two storey front extensions, first floor side extension and single and two storey rear extensions, removal of chimney on south-west elevation (revised scheme of 22/03323/F, 23/01059/F and 23/01952/F)

Ward: Banbury Calthorpe And Easington

Councillors: Cllrs Ian Harwood, Kieron Mallon and Lynne Parsons

Reason for Referral: Called in by Councillor Lynne Parsons for the following reasons:

- over-development
- out of keeping with area and street scene

Expiry Date: 18 December 2023

Committee Date: 7 December 2023

SUMMARY RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS UPON THE EXPIRY OF THE PUBLICITY PERIOD (14 DECEMBER)

1. APPLICATION SITE AND LOCALITY

1.1. The application relates to a two-storey detached dwelling located within the built form of Banbury. It is set within a spacious plot and bounded by residential neighbours to the north, east and south set in similar size plots. The highway lies to the west/north-west beyond a generous grass verge, which includes trees. There are slight levels differences across the site but none that has a bearing on the assessment of the application.

2. CONSTRAINTS

2.1. The dwelling is not a listed building nor is the site located within a designated conservation area or sited within the setting of a listed building.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

3.1. The application seeks planning permission for single and two storey extensions to front side and rear.

3.2. Permission was first granted for similar works under reference 22/03323/F. There were then two subsequent applications 23/01059/F refused under delegated powers, and then 23/01952/F refused by planning committee on grounds of residential amenity and design, overturning an officer recommendation for approval.

3.3. The changes from the last refused scheme (23/01952/F) are: (1) reduction of 1.0m in depth of two-storey rear projection and (2) change from Juliet balcony and full length window in the first floor rear element to two standard size windows.

4. RELEVANT PLANNING HISTORY

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

22/03323/F - Part single/part double storey front extension, first floor side extension and single storey rear extension and removal of chimney on south west elevation.
Approved

23/01059/F - Single and two storey front extensions, first floor side extension and single and two storey rear extensions and removal of chimney on south west elevation (revised scheme of 22/03323/F) – **refused** under delegated powers, for the following two reasons

1. By reason of its design, scale and siting the proposed development would adversely impact on the character and appearance of the area. The proposed development is therefore contrary to Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies C28 and C30 of the Cherwell Local Plan 1996, the CDC Home Extensions and Alterations Design Guide (2007) and Government guidance contained within the National Planning Policy Framework.
 2. By reason of its scale, siting and design the proposal development would adversely impact the amenity of No.3 Elizabeth Rise through loss of outlook, and an imposing and overbearing form of development. The proposed development is therefore contrary to Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C30 of the Cherwell Local Plan 1996, the CDC Home Extensions and Alterations Design Guide (2007) and Government guidance contained within the National Planning Policy Framework.
- 4.2. The element of that proposal which led to Refusal Reason 1 was the centrally placed two-storey gable projection to the front elevation. The element of that proposal which led to Refusal Reason 2 was the outer two of the three first floor gable projections to the rear. Both have been omitted in the current proposals.
- 4.3. 23/01952/F - Single and two storey front extensions, first floor side extension and single and two storey rear extensions, removal of chimney on south-west elevation (revised scheme of 22/03323/F and 23/01059/F) – **refused** by planning committee, for the following reason:
1. By reason of its scale, form and massing, the proposal would result in overdevelopment of the site and would therefore adversely affect the character and appearance of the area. In addition, the proposal would result in excessive hardstanding exceeding the car parking capacity of the property, which would cause water problems and localized flooding due to water run off. The proposal would therefore be contrary to Policy ESD15 of the Cherwell Local Plan 2011-2031.

5. PRE-APPLICATION DISCUSSIONS

- 5.1. No pre-application discussions have taken place with regard to this proposal

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records (amend as appropriate). The final date for comments was **14 August 2023**, although comments received after this date and before finalising this report have also been taken into account.

6.2. Two letters of objection have been received and one letter of comment received; their comments are summarised as follows:

- The rapid evolution in the scale and form of the development has the potential to disrupt the established character and appearance of the area
- The visual impact of the proposals remains a significant concern
- The applicant destroyed/removed all existing mature trees – this has significantly impacted the privacy and amenity of neighbouring properties
- The alteration from ‘French’ windows to regular windows does not fully address the concerns regarding overlooking and the impact on neighbouring properties remains significant
- Increased number of cars that would park at the property as a result of this proposal; potential impact on on-street parking.
- The additional bedroom would lead to an increase in services demand, including energy, drainage and sewerage, as well as other publicly provided services and costs.
- The proposal would result in overdevelopment
- The previous three applications on the site have all been refused on grounds of overdevelopment. *(Officer note: this is incorrect; the first application of the three was approved; the overdevelopment referred to in the second application/first refusal related to a central gable to the front elevation, whereas the overdevelopment referred to in the last application/second refusal related to the rear gable projection.)*
- No material difference between last (refused) proposal and this proposal
- The Council should consider developing a planning policy for the Easington area to address the broader issue of overdevelopment.

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

7. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. BANBURY TOWN COUNCIL: **No objections**

OTHER CONSULTEES

7.3. Ward Councillor (Cllr Mallon) - I would like to object as the local member for the reasons I outlined in the last application. All the policies I put forward at the last planning meeting are still relevant.

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 2015)

- ESD15 - The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development
- C30 – Design of new residential development / impact on amenity

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide (2018)
- CDC Home Extensions and Alterations Design Guide (2007)

9. APPRAISAL

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

- Design, and impact on the character of the area
- Residential amenity
- Highway safety
- Ecology impact
- Other matters

Impact on the character and appearance of the area

- 9.2. The proposed development would be of significant size and would not be set down or set back from the existing dwelling and given its scale and massing it would not be a subservient addition.
- 9.3. However, the proposed front/ side extension would be similar to those at Nos. 3 and 5 adjacent to the south as well as no. 6 opposite. In this context the proposal is considered to not disrupt the street pattern significantly to warrant refusal. It is also identical to that approved under application 22/03323/F.
- 9.4. Given its siting, the proposed rear extension is considered acceptable in terms of its impact to the character and appearance of the surrounding area. The first floor element would not be visible from within the street scene and could not reasonably be said to result in any harm to the character and appearance of the area.
- 9.5. The previously proposed central gable projection to the front elevation, which was the basis for the first reason for refusal of the second application, has again been

omitted from the current proposals. The rooflight to the approved single storey front element has also been omitted, resulting in a simpler, less cluttered appearance.

- 9.6. The proposed materials, including facing brick, tiled roof and aluminium door would all match those of the existing dwelling.
- 9.7. The proposed removal of the chimney would not adversely affect the character and appearance of the surrounding area and was approved under 22/03323/F.
- 9.8. There is no difference in the hardstanding forward of the front elevation from that shown on the plans approved under 22/03323/F. In any case, the hardstanding does not form part of this planning application and any refusal on the basis of excessive hardstanding would not be reasonable on the part of the LPA.
- 9.9. For these reasons the proposal is not considered to be demonstrably harmful to the visual amenity of the character of the area, and the proposal therefore accords with saved Policies C28 and C30 of the CLP 1996, Policy ESD15 and Government guidance contained within the NPPF.

Impact on residential amenity

- 9.10. The neighbour situated closest to the proposed extensions is No. 3 Elizabeth Rise to the south-west. The two-storey side extension would be sited close to the common boundary. However, No. 3 has a primarily front and rear facing aspect, i.e. no primary purpose habitable room windows facing north. The first floor element to the rear is the only difference from the approved scheme that would be experienced by this neighbour but it would be set well off the common boundary with the neighbour, would not conflict with the 45 degree rule measured from the centre point of the neighbour's nearest windows, and has been reduced in depth to 3 metres – such that, if the single storey elements were not constructed, the two-storey rear projection would constitute permitted development.
- 9.11. It is therefore considered that the proposal would not adversely affect the amenities of No. 3 through loss of outlook nor would it be imposing or overbearing to that neighbour.
- 9.12. No windows are proposed to the south-west side elevation and so no overlooking would result. Given its siting to the north-east of the neighbour the proposal would not result in loss of light to this neighbour. Overall, therefore, the proposal is considered acceptable in amenity terms with regard to No. 3 Elizabeth Rise.
- 9.13. The outer two of the three previously proposed gable projection to the rear elevation, which were the basis for the second reason for refusal of the second application, have again been omitted from the current proposals, satisfactorily addressing that second refusal reason.
- 9.14. The rear extensions may be seen by the neighbours (Nos 1 and 3) on Queensway to the north/north-east of the site but given the separation distance between the proposed development and these neighbouring properties (in the case of No. 3, c.19.5m to the single storey element, c.22m to the two-storey element, with No. 1 further than that, whereas the Council's guidance expects 14m), the proposals would not adversely affect the living conditions of these neighbours either through loss of light, privacy or outlook or through an imposing or overbearing form of development.
- 9.15. The rear extensions may also be seen by the neighbours (Nos 126 and 128) on Bloxham Road to the south-east of the site but given the separation distance

(approx. 45 metres, which is twice the 22 metres expected in the Council's guidance) between the proposed development and these neighbouring properties, the proposals would not adversely affect the living conditions of these neighbours either through loss of light, privacy or outlook or through an imposing or overbearing form of development.

- 9.16. In addition, the Juliet balcony and full length window shown on the last application have been replaced by two, regular sized windows.

Impact on highway safety

- 9.17. The proposed development would result in one additional bedroom, and this may have an impact on parking requirements for the occupiers of the property. However, the Council's parking standards (two parking spaces) are no different between three bedroomed dwellings and four bedroomed dwellings. In any case, there is sufficient space between the dwelling and the footpath for at least three parking spaces. It cannot therefore be reasonably concluded that the current proposal would adversely impact on the safety or convenience of the local highway network.

Other matters

- 9.18. In addition to matters covered above, the letters of objection refer to (1) the proposals' impact on infrastructure, (2) that the proposal would set an unwelcome precedent for future development at adjacent properties, and (3) the proposal would result in overdevelopment of the site.
- 9.19. In relation to the proposals' impact on infrastructure, it is considered that the proposal would have no materially greater impact than the approved scheme, and it is noted that a development of one metre less in depth could likely be carried out under the property's permitted development rights.
- 9.20. In relation to the setting of precedent, every case is assessed on its own merits. However, the fact that similar side extensions have been approved at Nos 3 and 5 means that any objection to the principle of the two-storey side extension would be unreasonable. The additional two-storey rear element proposed here would not be harmful in terms of visual or residential amenity or highway safety.
- 9.21. In relation to whether or not the proposal would result in overdevelopment of the site, the two-storey side element reflects that approved and constructed at four other properties in the immediate locality including Nos. 3 and 5 Elizabeth Rise, and is identical to that approved under planning application 22/03323/F. The only difference in volume between that approval and this current application is the two-storey rear projection, which would not be visible from within the street scene and would not result in overdevelopment of the site, and would constitute permitted development if the single storey rear elements were not constructed.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. For the reasons set out above, the proposal complies with the relevant Development Plan policies and guidance listed at section 8 of this report, and so is considered to be sustainable development. In accordance with Paragraph 11 of the NPPF, permission should therefore be granted.

11. RECOMMENDATION

DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION, SUBJECT TO

- i. **THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY), AND**
- ii. **UPON THE EXPIRY OF THE PUBLICITY PERIOD (14 DECEMBER)**

Time Limit

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Compliance with Plans

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with drawings numbered 00-ST-02 A, 00-ST-01 A, 00-PR-EL-01 A, 00-PR-FP-01 A, 00-PR-FP-02 A and 00-PR-FP-03 A all submitted with this application.

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to safeguard the character and appearance of the area and the living conditions of neighbouring occupiers and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031, saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

3. The materials and architectural detailing to be used in the construction of the external surfaces of the development hereby permitted shall fully match, in material and colour, those used in the existing building, and shall be retained as such thereafter.

Reason - to safeguard the character and appearance of the area and to comply with Policy ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: Nathanael Stock

TEL: 01295 221886

Agenda Item 12

Cherwell District Council

Planning Committee

7 December 2023

Appeals Progress Report

Report of Assistant Director Planning and Development

This report is public.

Purpose of report

To keep Members informed about planning appeal progress including decisions received and the scheduling of public inquiries and hearings for new and current appeals.

1.0 Recommendations

The meeting is recommended:

- 1.1 To note the position on planning appeals contained within the report.

2.0 Introduction

- 2.1 This report provides a monthly update regarding planning appeals, including new appeals, status reports on those in progress, and determined appeals.

3.0 Report Details

New appeals

- 3.1 **23/00797/ADV – Land on South West Side of Gatteridge Street, Banbury, OX16 5DH.**

Erection of 1no internally illuminated freestanding digital advertisement display.

Officers Recommendation: Refusal (Delegated)

Method of Determination: Written Representation (CAS)

Start Date: 25.10.2023.

Appeal Reference: 23/00099/REF.

3.2 22/03445/F – The Bungalow, 2 Queen Street, Bloxham, Banbury, OX15 4QQ.

Single storey reduced level extension to existing bungalow, with associated landscaping.

Officers Recommendation: Refused (Committee)
Method of Determination: Written Representations (HAS)
Start Date: 27.10.2023.
Appeal Reference: 23/00100/REF.

3.3 22/02551/F – 15 Farmfield Road, Banbury, Oxon, OX16 9AP.

Demolition of 2 garages and replacement with 2 x 2-bedroom semi-detached dwellings, with access off Beechfield Crescent.

Officers Recommendation: Refused (Delegated)
Method of Determination: Written Representations.
Start Date 31.10.2023.
Appeal Reference: 23/0010/REF.

3.4 21/03522/OUT - Os Parcel 3673 Adjoining And West Of 161 Rutten Lane, Yarnton, OX5 1LT.

The erection of up to 540 dwellings (Class C3), up to 9,000sqm GEA of elderly/extra care residential floorspace (Class C2), a Community Home Work Hub (up to 200sqm)(Class E), alongside the creation of two locally equipped areas for play, one NEAP, up to 1.8 hectares of playing pitches and amenity space for the William Fletcher Primary School, two vehicular access points, green infrastructure, areas of public open space, two community woodland areas, a local nature reserve, footpaths, tree planting, restoration of historic hedgerow, and associated works.

All matters are reserved, save for the principal access points.

Officers Recommendation: Would have Refusal (Committee)
Method of Determination: Public Inquiry.
Start Date: 01.11.2023.
Appeal Reference: 23/00102/REF.

3.5 23/00173/OUT – Land South of Green Lane, Chesterton, OX26 1DF.

Outline planning application for up to 147 homes, public open space, flexible recreational playing field area and sports pitches with associated car parking, alongside landscaping, ecological enhancements, SuDs, green/blue and hard infrastructure, with vehicular and pedestrian/cycle accesses, and all associated works (all matters reserved except for means of access)

Officers Recommendation: Refusal (Committee)
Method of Determination: Public Inquiry.
Start Date: 02.11.2023.
Appeal Reference Number: 23/00103/REF

New Enforcement Appeals

3.6 21/00333/ENF – Fairway Cottage, Main Road, Swalcliffe, Banbury, Oxon, OX15 5HB.

Without planning permission, the construction of a timber outbuilding and associated engineering operations, including the raising of land levels and the construction of a retaining wall, as shown edged in blue on the attached plan titled 'Location Plan'.

Officers Recommendation: Enforcement Notice.
Method of Determination: Written Representation.
Start Date: 10.11.2023.
Appeal Reference: 23/000104/ENF

Appeals in Progress

3.7 22/02104/F - Land to The Rear of No.12 And South of Dismantled Railway, Heath Close, Milcombe, OX15 4RZ.

Erection of 35 two storey dwelling houses, construction of access off Rye Hill, together with garaging, parking, open space with LAP, landscaping and all enabling works.

Officers Recommendation: Refusal (Committee)
Method of Determination: Hearing. (1 Day)
Hearing Date: 18/10/2023.
Application Reference: 22/02104/F
Appeal Reference: 23/00088/REF
Start Date: 08.08.2023.

3.8 21/04289/OUT - OS Parcel 1570 Adjoining and West of Chilgrove Drive And Adjoining And North of Camp Road, Heyford Park.

Outline planning application for the erection of up to 230 dwellings, creation of new vehicular access from Camp Road and all associated works with all matters reserved apart from Access.

Officers Recommendation: Refusal (Committee)
Method of Determination: Inquiry (5 Day)
Hearing Date: 05/12/2023.
Application Reference: 21/04289/OUT
Appeal Reference: 23/00089/REF
Start Date: 14.08.2023.

3.9 21/00078/ENF – Cherwell Concrete – Bagnalls Haulage Ltd, Bagnalls Coal Yard, Station Road, Enslow, Kidlington, OX5 3AX.

Without planning permission, the material change of use of the land to a concrete batching plant and the erection of associated apparatus including a conveyor, corrugated enclosure, hoppers, and storage tanks.

Officers Recommendation: Enforcement Notice
Method of Determination: Written Representation
Start Date: 09.002.2023.
Appeal Reference Number: 23/00061/ENF

3.10 21/00078/ENF – Mr & Mrs Murphy – Bagnalls Haulage Ltd, Bagnalls Coal Yard, Station Road, Enslow, Kidlington, OX5 3AX.

Without planning permission, the material change of use of the land to a concrete batching plant and the erection of associated apparatus including a conveyor, corrugated enclosure, hoppers and storage tanks.

Officers Recommendation: Enforcement Notice
Method of Determination: Written Representation
Start Date: 09.02.2023.
Appeal Reference Number: 23/00060/ENF

3.11 22/02969/F – Attock House, Church Lane, Horton-Cum-Studley, Oxford, OX33 1AW

Ground floor extension to the rear with a green roof and roof light.

Officers Recommendation: Refusal.
Method of Determination: Written Representation (Fast Track)
Start Date: 18.05.2023.
Appeal Reference: 23/00074/REF

3.12 22/02637/F – Chapel Cottage, Wroxton Lane, Horley, Banbury, OX15 6BD.

Single-storey rear extension, removal of an existing door to create opening and removal of the window, and cut down of wall to FFL. (resubmission of 21/02720/F)

Officers Recommendation: Refused (Delegated)
Method of Determination: Written Representation.
Start Date: 15.06.2023.
Appeal Reference: 23/00078/REF

3.13 23/00150/CLUE – Unit 22 Beaumont Close, Banbury, Oxon, OX16 1SH.

Certificate of Lawfulness for the Existing Development: Implementation of planning permission 18/01366/F subsequent to 20/00046/DISC. Erection of 10 small commercial units (B2/B8) with associated car parking and landscaping - (resubmission of 22/00193/CLUE)

Officers Recommendation: Refusal (Delegated)

Method of Determination: Written Representation.
Start Date: 15.06.2023.
Appeal Reference: 23/00080/REF

3.14 22/02832/TEL56 - Telecommunications Cabinet CWL18723 H3G Network, The Hale Chesterton.

Proposed 15.0m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representation.
Start Date: 22.06.2023.
Appeals Reference: 23/00085/REF.

3.15 22/03741/F – Land Adj to Wise Crescent, Opposite The Laurels, Fringford, Oxon, OX27 8DZ.

Erection of 6 one and a half and two storey dwellings, with the construction of new access and footpath, together with carports, parking, landscaping and all enabling works

Officers Recommendation: Refusal (Delegated)
Method of determination: Hearing
Hearing Date: 25.10.2023
Hearing Venue: Council Chambers, Bodicote House
Application Reference: 22/03741/F
Appeal Reference: 23/00087/REF
Start Date: 11.07.2023.

3.16 20/00236/ENF - Ambrosden Post Office and Newsagents, Post Office, Merton Road, Ambrosden, Bicester, OX25 2LX.

Breach of Condition 8 - 01/00694/F – Parking.

Officers Recommendation: Enforcement Notice.
Method of Determination: Written Representation.
Start Date: 13th September 2022
Appeal Reference: 22/00043ENF

3.17 22/02773/F – 4 Manor Road, Fringford Bicester, OX27 8DH.

First floor extension above existing lounge; extension to rear of existing garage to provide utility/workshop space with home-working office above and link to main house. New pedestrian access gate to front. PV panels to new south facing roof. New external boiler, oil tank and rainwater harvesting tank.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Householder Appeal (HAS)
Start Date: 15.06.2023.
Appeal Reference: 23/00076/REF

3.18 23/00662/F - The Pheasant Pluckers Inn, Burdrop, Banbury, OX15 5RQ

RETROSPECTIVE - Change of Use of public house (Sui Generis) to hotel/bed and breakfast (Class C1)

Officers Recommendations: (Application did not pass Validation)
Method of Determination: Written Representations
Appeal against non-determination
Start Date: 13/09/2023.
Appeal reference: 23/00092/NON

3.19 22/03802/OUT - Part Of OS Parcel 8752 East Of Combe Cottage And South Of St Johns Way, Hempton Road, Hempton.

Outline planning application for the erection of up to 9 dwellings and creation of associated vehicular and pedestrian access onto Hempton Road, highway improvements, parking, landscaping, drainage features, open space, and associated infrastructure, with all matters to be reserved except new vehicular access into the site from Hempton Road - all matters reserved except for access.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Hearing (1 Day)
Hearing Date: 14/11/2023.
Hearing Venue: Council Chambers.
Planning Reference: 22/03802/OUT
Appeal Reference: 23/00091/REF
Start Date: 22/08/2023.

3.20 22/02866/OUT – Land East of Ploughley Road, Ambrosden.

OUTLINE planning application for up to 120 dwellings, vehicular and pedestrian access off Ploughley Road, new pedestrian access to West Hawthorn Road, surface water drainage, foul water drainage, landscaping, public open space, biodiversity and associated infrastructure. Access off Ploughley Road is not reserved for future consideration.

Officers Recommendation: Refusal (Committee)
Method of Determination: Inquiry (5Days)
Appeal Reference: 23/00091/REF
Start Date: 22/08/2023.

3.21 23/0086/FULL – 67 Oxford Road, Banbury, Oxon, OX16 9AJ

Conversion from 10-bed HMO to 12-bed HMO (Sui Generis) (Resubmission of 23/00120/F)

Confirmation of Valid Appeal by PINS. Awaiting Start Letter.

3.22 23/00676/F – 12 Mill Close, Charlton on Otmoor, Kidlington, OX5 2UE.

Remove rear conservatory and outbuilding. Remove concrete garage, timber shed and greenhouses. Construct new two storey side and rear extension, with lean-to single storey infill to rear.

Officers Recommendation: Refused (Delegated)
Method of Determination: Written Representation.
Start Date: 20.09.2023.
Appeal Reference: 23/00093/REF

3.23 22/03698/TEL – Area of Grass Verge, Austins Way, Hook Norton.

5G telecoms installation: H3G 15m street pole and additional equipment cabinets.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representations.
Start Date: 20.09.2023.
Appeal Reference: 23/00094/REF

3.24 23/000176/F – 1 School Paddock, Bucknell, OX27 7LR.

Variation of Condition 2 (plans) of 21/03977/F - minor alteration to position of the garage, small increase in width, modest increase in ridge height.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representation.
Start Date: 21.09.2023.
Appeal Reference: 23/00095/REF

3.25 23/00065/OUT – Land North of Ells Lane, Bloxham, Banbury, Oxon.

Outline planning permission for up to 30 dwellings including access off Ells Lane and demolition of the existing stabling on site - All Matters Reserved except for access.

Officers Recommendation: Refusal (Committee)
Method of Determination: 1 Day Hearing.
Start Date: 02.10.2023.
Appeal Reference: 23/00097/REF

3.26 23/00987/F – 67 The Fairway, Banbury, Oxon, OX16 0RR.

Single Storey Rear Extension.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representation (HAS)
Start Date: 03.10.2023.
Appeal Reference: 23/00098/REF
Appeal Withdrawn – 14.10.2023.

Forthcoming Public Inquiries and Hearings between 7 December 2023 and January 2024.

3.27 21/04289/OUT - OS Parcel 1570 Adjoining and West of Chilgrove Drive And Adjoining And North of Camp Road, Heyford Park.

Outline planning application for the erection of up to 230 dwellings, creation of new vehicular access from Camp Road and all associated works with all matters reserved apart from Access.

Officers Recommendation: Refusal (Committee)
Method of Determination: Inquiry (8 Days)
Hearing Date: 05/12/2023.
Application Reference: 21/04289/OUT
Appeal Reference: 23/00089/REF
Start Date: 14.08.2023.
Venue: Council Chambers.

Appeal Results

3.28 22/02832/TEL56 -The Inspector dismissed the appeal by CK Hutchison Networks (UK) Ltd for proposed telecommunications installation: proposed 15.0m Phase 8 Monopole C/W wraparound cabinet at base and associated ancillary works at The Hale, Chesterton, OX26 1UJ.

Method of determination: Written representation

Appeal Reference: 22/00085/REF

The Inspector identified the main issue as the effect of the siting and appearance of the proposed development on the character and appearance of the area, including the effect on the setting of the Chesterton Conservation Area.

The Inspector found that the abundance of greenery and tree cover on the edge of the village together with the areas of open, undeveloped space provide a spacious and verdant setting which positively contributes to the significance of the

Conservation Area. Whilst there is existing street furniture including road signs and lighting columns located in the vicinity of the appeal site, that provide a degree of verticality, by virtue of their height and scale, they are not overly prominent in the streetscene which is open and verdant. At 15 metres in height, the proposed monopole would exceed the height of the existing street furniture by a significant margin and be conspicuously tall. Whilst recognising that the equipment has been designed to utilise the existing natural screening, it would nevertheless read as a highly obtrusive, utilitarian addition to the streetscene, particularly in the winter months when the tree canopies are reduced. Further, despite being described as slimline by the appellant, the monopole would be substantially wider than the other vertical structures in the immediate area, resulting in a bulky and unduly dominant development. In addition, whilst the appellant contends that the ground based cabinets are permitted development, they are identified on the submitted plans, and in combination with the monopole, the Inspector considered would result in the undesirable accumulation of unsightly clutter on a generally verdant, open area of verge, and the prominent roadside location would contribute to the visual dominance of the proposal as perceived by passers-by.

In addition, the Inspector considered that there was no substantive evidence to sufficiently demonstrate why the option of moving the equipment along the road, as set out in the Council's delegated report, would not be possible. Based on the available evidence, the Inspector was not persuaded that the proposed location would be the least harmful in the locality. Further, whilst unfortunate, the lack of pre-application advice with the Council had no bearing on the Inspector's consideration of the planning merits of the proposal. The Inspector acknowledged that the height of the monopole had been reduced, that it would not impact the free flow of pedestrians and that there were no objections from consultees. The development would also not harm the setting of any listed buildings or neighbouring properties, although these were considered to be neutral factors that do not weigh in favour of the proposal.

The Inspector considered that the GPDO does not provide any specific authority for imposing additional conditions beyond those set out by Class A and that they were therefore unable to impose a condition regarding the external finish.

The Inspector concluded that the proposed development would erode the verdant and spacious setting of the Conservation Area, negatively affecting the significance of a designated heritage asset. The harm caused was found to be less than substantial. The social and economic benefits of improved connectivity were public benefits weighing in favour of the scheme and the Inspector afforded these moderate weight. However, these benefits would not outweigh the less than substantial harm that the proposal would cause to the setting of the Conservation Area, to which the Inspector attached great weight. The Inspector considered that the proposal would fail to satisfy the requirements of paragraph 197 of the Framework, and would conflict with Local Plan Policies ESD 15 and Saved Policies C28 and C39 of the Cherwell Local Plan 1996.

- 3.29 **22/01980/F – The Inspector Allowed the appeal by Mr for the Change of Use of land to mixed use for keeping of horses (existing) and as a residential caravan site for 3 gypsy/traveller families, each with a static caravan/mobile home, together with storage of touring caravan and laying of additional hardstanding at The Paddock, Main Street, Great Bourton, Oxon, OX17 1QL.**

Officer recommendation: Refusal.
Method of determination: Hearing.

Inspector Elizabeth Pleasant considered that the main issues were:

- A. Effect on the character and appearance of the area.
- B. Whether the development would provide acceptable living conditions for future residents.
- C. Whether there would be unacceptable risk of flooding; and
- D. Whether the needs of gypsies and travellers for sites were adequately provided for.

Issue A: Although in a rural, open countryside location where there would inevitably be some landscape impact with encroachment into the countryside, the Inspector noted that the NPPF and national Planning Policy for Traveller Sites do not object in principle to gypsy and traveller development in rural areas. From her site inspection, she concluded that the site was “*well screened*”, was “*well related to existing built development on the site and to the adjoining caravan site*” and “*would not be visually conspicuous*” so concluded that any harm would be “*localised*” and impacts could be mitigated.

Issue B: The Inspector concluded that “*the size of the site [and] pitches would not be cramped...would not preclude outdoor play...[and]...the adjoining paddock would provide space for outdoor recreation*” so concluded that the site would provide acceptable living conditions/environment for gypsies and travellers.

Issue C: Whilst the site was shown to be susceptible to flooding, the Inspector noted that the land lay in EA Flood Zone 1 (land at least flood risk) and concluded that she was satisfied that a technical solution could be found to deal with any increase in surface water and that could be secured by a condition.

Issue D: With respect to land supply for gypsies and travellers, having reviewed the published needs from 2017 and 2021 against the number of subsequent losses and additions, the Council had to concede a shortfall of three (3no.) pitches as required by Policy BSC6 in the 2015 Local Plan and the Inspector attached significant weight to that shortfall.

Having concluded that there would be no material harm in respect to Issues A, B and C and with an acknowledged shortfall in pitch provision on sites to satisfy needs, the Inspector allowed this appeal and granted conditional planning permission for three gypsy/traveller static caravan/mobile homes together with storage of up to 3 touring caravans and the laying of additional hardstanding.

On the basis of this appeal decision, the Council no longer has a shortfall in provision, as the three-pitch shortfall has now been satisfied by this new consent.

- 3.30 22/00998/F – The Inspector Allowed the appeal by Mr A Bradbury for the erection of a 4 bedroom detached dwelling with garage and access st Land North East of Fringford Study Centre Adjoining Rectory Lane, Fringford, Oxon.

The application sought to gain permission for the construction of a single four-bedroom detached dwelling with garage and access. Officers recommended approval of the scheme, following a similar application in 2020 which was dismissed at appeal on Archaeology grounds. The Inspector in the 2021 appeal considered

that the proposal was acceptable on character and appearance grounds. The Committee in determining the 2022 application, opted to refuse permission on the basis that the proposal would have an unacceptable impact on the character and appearance of the area, would result in significant harm to the verdant setting of the site and the open, rural character of the area and would result in the unacceptable loss of an undeveloped gap impacting on the existing loose-knit character of the area.

The Inspector considered that given the extent of landscaping to be retained, the verdant character of the site would be maintained and would not read as an overly intensive form of development. Further, that the removal of the dwarf wall would not be to the detriment of the site's immediate surroundings nor the character and appearance of the wider locale. The Inspector also considered that the proposal would be contextually in-keeping with the surrounding area. The Inspector concluded that the proposal would not harm the character and appearance of the area and therefore upheld the appeal.

The applicant was awarded costs. The Inspector noted that Council Members have the discretion to reject a recommendation put to them by professional officers, however the reasoning for a subsequent refusal of planning permission needs to stand up to scrutiny and be supported by robust objective evidence. The Inspector concluded that no credible evidence was provided to satisfactorily explain the rejection of the conclusion set out within the Officer's report and thus there was no reasonable basis for the Council to justify a refusal of the planning application on the grounds of character appearance.

3.31 21/03066/OUT – The Inspector Dismissed the Appeal by Miss Katie Christou for an Outline application for up to 30 Dwellings and detached access from Banbury Road with all other matters reserved at Land West of Chinnalls Close Adjoining to Banbury Road, Finmere.

This was an application that was refused by members, due to its unsustainable location with regard to the local services. The refusal of the application included other matters such as archaeology and a S106, however, these matters were addressed prior to the hearing. The appellants did not argue a 5 year housing land supply, as this was agreed upon prior to the hearing taking place.

The Planning Inspectorate noted that the development in Finmere has been small-scale and linear in nature, commensurate with its very limited range of facilities. Overall, the application was dismissed due to the overall size of the development would be too large in relation to the range of local facilities. Therefore the residents would be dependent on the motor vehicle. The appeal was therefore dismissed, the benefits would not outweigh the fundamental objection of providing too many homes in a village with too few facilities.

4.0 Conclusion and Reasons for Recommendations

- 4.1 The report provides the current position on planning appeals which Members are invited to note.

5.0 Consultation

None.

6.0 Alternative Options and Reasons for Rejection

- 6.1 None. This report is submitted for information.

7.0 Implications

Financial and Resource Implications

- 7.1 The cost of defending appeals is met from existing budgets other than in extraordinary circumstances.

Significant levels of appeals have now been submitted against the Council that means the budget provision for the 2023/24 is forecast to be exceeded by £313k.

This is being mitigated by an allocation from the Appeals Reserve of £209k (subject to approval from the Executive). The balance of £104k will need to be addressed by identifying underspends across the Council.

Any further appeals submitted against the Council will result in further mitigations needing to be identified to meet these additional costs.

Comments checked by:
Kelly Wheeler
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Legal Implications

- 7.2 As this report is purely for information there are no legal implications arising from it.

Comments checked by:
Shahin Ismail, Interim Head of Legal Services,
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Risk Implications

- 7.3 This is an information report where no recommended action is proposed. As such there are no risks arising from accepting the recommendation. Any arising risk will be managed through the service operational risk and escalated to the Leadership Risk Register as and when necessary.

Comments checked by:

Celia Prado-Teeling, Performance & Insight Team Leader, 01295 221556

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Equalities and Inclusion Implications

- 7.4 This is an information report where no recommended action is proposed. As such there are no equality implications arising from accepting the recommendation.

Comments checked by:

Celia Prado-Teeling, Performance & Insight Team Leader, 01295 221556

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8.0 Decision Information

Key Decision

Financial Threshold Met: N/A

Community Impact Threshold Met: N/A

Wards Affected

Various, depending on appeal.

Links to Corporate Plan and Policy Framework

N/A

Lead Councillor

Councillor Daniel Sames, Portfolio Holder for Planning

Document Information

Appendix number and title

None

Background papers

None

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Cherwell District Council

Planning Committee

Date of Meeting 07 December 2023

Planning Performance Report

Report of Assistant Director Planning Policy and Development

This report is public

Purpose of report

This report details the Council's performance in determining planning applications for the Government's targets on Speed and Quality, as well as general performance figures.

1.0 Recommendations

The meeting is recommended:

- 1.1 To note the report

2.0 Introduction

- 2.1 This is a report to the Planning Committee on the Council's performance in respect of determining planning applications, with particular reference to major¹ and non-major² applications based on government targets.
- 2.2 Performance is measured using the Department for Levelling Up, Housing and Communities (DLUHC) 'Improving Planning Performance: Criteria for Designation (updated 2022)'. If a Local Planning Authority (LPA) is designated as underperforming in either 'major' or 'non-major' applications then applicants for those types of applications could apply directly to the Secretary of State for determination of those applications, i.e. the LPA potentially lose the power to determine these applications.

¹ Major development is defined as the (a) winning and working of minerals or the use of land for mineral-working deposits; or (b) waste development; or (c) the provision 10 or more dwellinghouses;- or a development on a site area of 0.5 hectares or more if it is not known how many dwellings are proposed; or (d) the provision of a building(s) where the floorspace to be created is 1,000 sqm or more; or a development carried out on a site area of 1 hectare or more.

² Non-major development is defined as any applications for planning permission for development which is not major development.

2.3 The above guidance states that DLUHC will determine whether to designate a LPA as underperforming based (approximately) on the performance of the previous 2 years

2.4 The table below sets out the designation thresholds and assessment period:

Measure and type of Application	2022 Threshold and assessment period	2023 Threshold and assessment period
Speed of major Development	60% (October 2020 to September 2022)	60% (October 2021 to September 2023)
Speed of non-major Development	70% (October 2020 to September 2022)	70% (October 2021 to September 2023)
Quality of major Development	10% (April 2020 to March 2022)	10% (April 2021 to March 2023)
Quality of non-major Development	10% (April 2020 to March 2022)	10% (April 2021 to March 2023)

2.5 **Speed** is measured on the percentage of decisions made:

- (a) within the statutory determination period (8 weeks for non-major development, 13 weeks for major development and 16 weeks for EIA development (applications subject to an Environmental Impact Assessment)), or
- (b) within such extended period as has been agreed in writing between the applicant and the LPA

2.6 **Quality** is measured on the percentage of the total number of decisions on applications made by the LPA during the assessment period being overturned at appeal.

3.0 Report Details

Speed of Decisions - 2022

3.1. The table below sets out the Council's performance against the National Target for 2022 (which is based on the period October 2020 to September 2022):

Speed	Major applications (13/16 week target or agreed extension of time)	Non-major applications (8 week target or agreed extension of time)
National Target (2022)	60%	70%
CDC performance	96% (126/131 apps)	88% (2314/2626 apps)

3.2. In summary, the Council achieved and exceeded the National Target for 2022.

Speed of Decisions – 2023

3.3. The tables below sets out the Council's current performance against the National Target for 2023 (which is based on the period October 2021 to September 2023):

CDC Performance per quarter	Major applications (13/16 week target or agreed extension of time)			Non-major applications (8 week target or agreed extension of time)		
	Per quarter	Rolling Performance		Per Quarter	Rolling Performance	
Oct – Dec 2021	94% (17/18)	94% (17/18)	-	94% (300/318)	94% (300/318)	-
Jan – Mar 2022	88% (15/17)	91% (32/35)	↓	92% (266/289)	93% (566/607)	↓
Apr – June 2022	100% (15/15)	94% (47/50)	↑	95% (345/364)	94% (911/971)	↑
July-Sept 2022	100% (14/14)	95% (61/64)	↑	91% (268/295)	93% (1179/1266)	↓

Oct – Dec 2022	100% (10/10)	96% (71/74)	↑	94% (263/279)	93% (1442/1545)	↑
Jan – Mar 2023	93% (13/14)	95% (84/88)	↓	93% (267/287)	93% (1709/1832)	-
Mar – Jun 2023	86% (12/14)	94% (96/102)	↓	89% (337/377)	93% (2046/2209)	-
July – Sep 2023	74% (14/19)	94% (110/121)	-	88% (226/258)	92% (2272/2467)	↓

- 3.4. In summary, the Council achieved a performance of 94% of Major applications in time and 92% of Non-Major applications in time.

Quality of Decisions 2023

- 3.5. The table below sets out the Council's performance for 2023 based on the government's quality of decision requirements for major and non-major applications between April 2021 to March 2023:

Quality (for period April 2021 to March 2023)	Major applications % allowed at appeal	Non-major applications % allowed at appeal
National target (2023)	10%	10%
CDC performance	4.7% (6 appeals allowed out of 128 decisions made by the LPA)	1.1% (28 appeals allowed out of 2638 decisions made by the LPA)

- 3.6. The government have not yet set requirements for quality yet beyond March 2023, but it is expected to be 10%

Quality (for period after March 2023)	Major applications % allowed at appeal	Non-major applications % allowed at appeal
National target (tbc)	10%	10%

CDC performance (to date for Q1 and Q2, April 23 to Sept 23)	4.7% (6 appeals allowed out of 128 decisions made by the LPA)	1.1% (28 appeals allowed out of 2638 decisions made by the LPA)
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3.7. In summary, the Council has exceeded the National Targets for Quality for 2023.

Comparison with neighbouring councils

3.8. The tables below show a comparison of the performance figures with neighbouring district councils for the past year (01/10/2022 to 30/09/2023)

3.9. The tables are split into Majors and non-majors

3.10. In addition to performance figures, additional data is provided regarding the total number of applications received as well as the use of Extensions of Time (EOT) and Planning Performance Agreements (PPA).

Major Applications					
Council	Total number of applications determined	Number determined within time or EOT	% within time or EOT	Number determined within time without using EOT	% within time without EOT
Oxford City Council	30	29	97%	7	23%
Cherwell District Council	48	46	96%	11	23%
South Oxfordshire District Council	53	47	89%	5	9%
Buckinghamshire Council	151	132	87%	32	21%
Stratford Upon Avon District Council	66	57	86%	11	17%
West Oxfordshire District Council	36	30	83%	13	36%
West Northamptonshire Council	105	68	57%	12	11%

Non-Major Applications					
Council	Total number of applications determined	Number determined within time or EOT	% within time or EOT	Number determined within time without using EOT	% within time without EOT
Cherwell District Council	1124	1024	91%	412	37%
South Oxfordshire District Council	1539	1383	90%	947	62%
West Oxfordshire District Council	1098	980	89%	668	61%
Oxford City Council	927	804	87%	485	52%
Stratford Upon Avon District Council	1306	1047	80%	674	51%
Buckinghamshire Council	5045	3586	71%	2158	43%
West Northamptonshire Council	2233	1567	70%	586	26%

3.11. Cherwell is one of the best performing Local Planning Authorities compared to other District Councils on it's border areas. However, and like other authorities, this is heavily reliant on the use of Extensions of Time.

4.0 Conclusion and Reasons for Recommendations

Speed

4.1. Speed of determination for major and non-major applications exceeded the Government's performance targets for 2023.

Quality

5.4 Based on the quality of decisions to date, the Council has met the Government's performance for quality for 2023 based on the relevant assessment periods.

5.0 Consultation

N/A

6.0 Alternative Options and Reasons for Rejection

6.1 N/A

7.0 Implications

Financial and Resource Implications

7.1 There are no financial implications arising from this report. The report is for information only.

Comments checked by:

Kelly Wheeler-Finance Business Partner, 01295 221570

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7.2 Legal Implications

As this report is purely for information there are no legal implications arising from it.

Comments checked by:

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7.3 Risk Implications

This is an information report where no recommended action is proposed. As such there are no risks arising from accepting the recommendation. Any arising risk will be managed through the service operational risk and escalated to the Leadership Risk Register as and when necessary.

Comments checked by:

Celia Prado-Teeling, Performance & Insight Team Leader, 01295 221556

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Equalities and Inclusion Implications

7.4 This is an information report where no recommended action is proposed. As such there are no equality implications arising from accepting the recommendation.

Comments checked by:

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8.0 Decision Information

Key Decision:

Financial Threshold Met: N/A

Community Impact Threshold Met: N/A

Wards Affected

Various

Links to Corporate Plan and Policy Framework

N/A

Lead Councillor

Councillor Daniel Sames, Portfolio Holder for Planning

Document Information

Appendix Number and Title

None

Background papers

None

Report Author and contact details.

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