

**Os Parcel 9078 and 9975 Adjoining Stocking Lane and North of Rattlecombe Road Stocking Lane Shenington**

**22/00489/F**

**Case Officer:** Nathanael Stock

**Applicant:** Elan Homes, George Arthur Mcpherson Coles, Sarah G

**Proposal:** Erection of 49 dwellings (17 of which (35%) will be affordable homes) with associated garages, parking and refuse storage, private gardens and communal open space/play space, hard and soft landscaping (including SUDs feature and means of enclosure, reinstatement of hedging and ironstone walling along Rattlecombe Road)

**Ward:** Cropredy, Sibfords and Wroxton

**Councillors:** Cllr Chapman, Cllr Reynolds, and Cllr Webb

**Reason for Referral:** Ten or more dwellings

**Expiry Date:** 30 September 2022

**Committee Date:** 8 September 2022

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**SUMMARY OF RECOMMENDATION: REFUSE**

**1. APPLICATION SITE AND LOCALITY**

1.1 The application site (“the site”) comprises approx. 2.8 hectares of land located on the north-western edge of the village of Shenington. The site is currently used for agricultural, livestock and grazing purposes and has an existing field gate access onto Stocking Lane. The proposed development site is in a key location within Shenington village. North of the land is Stocking Lane close to Shenington Church of England Primary School, and Fenny Compton Surgery (Shenington Branch). To the east are residential dwellings, with Rattlecombe Road to the south. Rattlecombe Road is a 5m wide adopted highway that serves as a local bus route and subject to a 30mph speed limit.

1.2 Vegetation is largely limited to the site boundaries. The site's northern, and western boundaries are defined by existing hedgerows with a partial hedgerow along the eastern site boundary and a group of Ash trees to the south. Field boundaries in the immediate context of the site are intact in places, although there are gaps of varying widths to the northern and eastern boundaries and is relatively well contained within the wider landscape by existing vegetation and built form. The majority of existing vegetation along the site boundaries is assumed to be of moderate arboricultural and landscape value.

**2. CONSTRAINTS**

2.1. The application site lies adjacent to the Shenington and Alkerton Conservation Area, where several listed buildings are located. The site is close to the historic core of Shenington, which is an area of Archaeological interest. The site is within the 50-metre buffer zone of potentially contaminated land and the site itself is also known to contain naturally occurring elevated levels of Arsenic and Radon.

### **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. The current application is made in outline with all matters reserved except the principle means of access from Rattlecombe Road by a single priority junction.
- 3.2. The application is made for 49 dwellings (17 of which (35%) would be affordable homes) with associated garages, parking and refuse storage, private gardens and communal open space/play space, hard and soft landscaping (including SUDs feature and means of enclosure, reinstatement of hedging and ironstone walling along Rattlecombe Road).

### **4. RELEVANT PLANNING HISTORY**

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

01/02422/OUT - Erection of 29 No. dwellings including 11 No. affordable dwellings, site for new village hall, associated car parking and a village play area.  
Withdrawn

02/02000/F - Erection of 5 No. dwellings and construction of new access to highway.  
Withdrawn

08/00119/F - Change of use of land from Agricultural to Equestrian use.  
Withdrawn

08/01187/F - Change of use of land from Agricultural to Equestrian use to include the creation of new access onto Rattlecombe Road.  
Refused

### **5. PRE-APPLICATION DISCUSSIONS**

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

21/02693/PREAPP - Erection of 60 new dwellings, plus open space

The advice given was that the principle of development was not acceptable

### **6. RESPONSE TO PUBLICITY**

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records (amend as appropriate). The final date for comments was **22 April 2022**.
- 6.2. Letters of objection have been received from 106 households, principally from Shenington with the majority of the remainder from Alkerton and Shutford. The comments raised by third parties are summarised as follows:
  - Principle of development - Lack of need for additional housing; Contrary to the Local Plan - Shenington is a Category C village, where only infilling and conversion is permissible;
  - Sustainability - Not a sustainable location for development of this scale - there are no shops in the village, no post office, almost no employment and a very limited bus service; new developments should encourage the use of public transport; anyone working would need to drive to work; Not sustainable;

inadequate provisions for electric vehicles; no eco/green solutions for heating or electricity generation e.g. heat pumps or solar panels

- Visual impact - Generic design of proposed houses with no consideration of the setting; proposed materials are completely at odds with the local ironstone/Hornton stone; This type of downmarket and cheap build belongs closer to a town and/or on a brownfield site; Irrevocable, adverse impact on the character of Shenington, one of the best-preserved Ironstone villages; impact on the quiet and peaceful surroundings; impact on the landscape – the site is on relatively high ground, visible for miles around; the proposal would cause harm to the Conservation Area; loss of open space and trees; the site clearly visible from the AONB which is only 1km away from the site boundary; adverse effect on 75 heritage assets, including 58 listed building, within the locale; the development will block views of the countryside; light pollution
- Archaeology - The site is close to the boundary of medieval village and as such a thorough prior archaeological investigation, including trench excavations, must be undertaken
- Size of development - The proposal is too large given the size of the village and the extent of its amenities; the proposal would increase the population of the village by 25-40%; would be a disproportionate addition
- Impact on village infrastructure, including the (part-time) doctors' surgery and the primary school; the village has no public fields or playing grounds so children use the village green instead. The village green has direct access onto the main road and puts children at high risk. Impact on electricity supply infrastructure; Epwell substation at maximum capacity and in deficit by - 6.13MVA at peak time demand. Shenington already subject to regular power cuts and the electricity supply to extra houses would further overload the system and cause severe disruption
- Impact on traffic, on Rattlecombe Road and through the village – the proposal would add more congestion and danger on the roads; narrow road access; no footpaths; visibility along the stretch of road into which access to the proposed new development is planned is limited and a large number of turning vehicles would prove a safety hazard; traffic heading for a local go-kart track is not allowed to pass through because of the danger that additional traffic would pose and this increase is no different; Rattlecombe Road is totally unsuitable for heavy construction traffic; increased congestion and pressure by visitors, especially at weekends and holidays, and home delivery services; The Transport Statement ignores the main road passing through the centre of Shenington and Alkerton on its way to the A422; wrongly implies that most traffic is west towards Tysoe when the majority are eastward through Alkerton towards Banbury. The route for pedestrians from the proposed site through to Alkerton is already dangerous as there are no pavements on either side of the road for much of the route. The resulting increase in traffic and pedestrians would pose a significant increase in risk of accident. Insufficient resident and visitor parking within the development which would lead to parking on nearby verges and increase the negative impacts on highway safety.
- The proposed access is potentially dangerous as it is close to a blind bend for traffic approaching from the west; the traffic existing from the proposed development would pose a significant additional risk of accident at the junction on a narrow road; already a number of pinchpoints along route; steep inclines which are made more hazardous in winter months by ice and snow
- Impact on surface and foul water drainage infrastructure – in Shenington it is already at capacity and fails regularly, so adding to the load will cause more issues and more effluent discharge on land and into waterways; photos

provided of surface water runoff on Rattlecombe Road and Stocking Lane and sewerage overflow; why should a new development be connected to the mains sewage system when many existing properties must rely on septic tanks.

- Impact on wildlife; inadequate assessment of site ecology; negative impacts on wildlife (including various protected species such as badgers, hedgehogs, swifts, housemartins, kites and buzzards), biodiversity and eco-systems
- Land use: the land is ancient pasture; 'The proposed site is arable farmland which if built upon would cause significant environmental degradation'
- Increased noise and pollution both during the construction phase and once the properties were occupied; the noise assessment by Enzygo (appendix A) omitted consideration of wind direction and is therefore misleading; every garden facing the karting facility would need an acoustic barrier fence of at least 4-5m and triple glazing to mitigate noise complaints
- Significant levels of arsenic in the soil samples taken on site and a more detailed environmental report is required; close proximity to primary school poses high risk of construction dust containing arsenic entering the school site
- Impact on mental health as the village would no longer be small, quiet and peaceful
- Communications infrastructure at capacity; no high-speed broadband which affects home-working and general use, particularly evenings and weekends, with regular network downs. Mobile signal is unreliable
- Approval would set a precedent for "a much bigger intensive attempt to build right up Stocking Lane, extend the old roadway and over the airfield"
- Such developments should be directed to urban areas
- A similar application was rejected c. 20 years ago

Other comments raised that are not material considerations include:

- Impact on value of existing properties
- We are at a loss to understand why this application has been accepted for consideration by Cherwell District Council. An application of this kind should have been ruled out before it got to this stage. [Officer comment: CDC is obliged to entertain and determine validly made applications.]
- The developers state they have consulted with residents – this is 'somewhat economical with the truth' as limited consultation in Shenington and none in Alkerton.
- Elan's documentation is 'intentionally dishonest.....It pretends that Shenington is an irrelevant, non-descript village with aging bungalows, vernacular insignificant houses...'
- Elan Homes has indicated that 35% of the homes they build will be affordable - otherwise they face a fine. What is the company's track record on achieving this aim? There have been reports of building firms absorbing fines into their initial quotes, disregarding quotas and constructing more expensive (and therefore more profitable) houses.
- Lack of attention to detail, misspelling the village name, incorrect identifications of key service providers and referring in error to other locations etc in the submission does not inspire confidence in the development/developer.

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 SHENINGTON WITH ALKERTON PARISH COUNCIL: **Strongly objects.** There is strong opposition within the parish. There are significant weaknesses within the planning application submission. The parishioners in attendance at the Parish Council meeting of 16th March 2022 indicated unanimous opposition to this proposal and therefore the Parish Council is agreed that this plan should be opposed.

The Parish Council wishes to make it clear that a representative should be allowed to present these views and any other subsequent opinions to the Planning Committee meeting.

#### *General*

The applicants sought and received a Professional Assessment by Case Officer report which, at its conclusion, indicated that there would be a number of submission requirements several of which seem to be missing.

We would also note that the quality of documents is poor in many places, including duplications, simple errors and omissions, giving an impression that the applicant wishes to submerge the Committee and other interested parties with the volume of documents provided. The fact that the applicant seems to have not taken great care with the preparation of this crucially important suite of documents gives rise to the thought that the applicant may not take particular care in other important areas.

A review of the developer's website would indicate that they have little or no experience of building within a similar environment and therefore it can be supposed that they have little idea of the impact of their construction on a historic village set in the Cotswolds. Some of the houses, and there have been quite a number of infills and conversions, that have been developed in the village over the last few decades have lacked a sympathy with the village environment and the proposed plans indicate that the developer has no better sense of what is appropriate.

Given the priority of and importance attached to Environment, Social and Governance goals ("ESG") it seems surprising that this proposal has even made it to this stage, the developers clearly have not picked up the signals of the public mood. Furthermore, on the basis that the proposals for this site have been repeatedly rejected, the current proposal seems ever more surprising and unwarranted.

#### *Highways*

A report, "Roads and traffic in Shenington and Alkerton", produced by the Shenington with Alkerton Parish Council, dated December 2015, and sent to Oxfordshire County Council highways department, provides much relevant information explaining why housing development in Shenington cannot be justified. There has been no change in the conditions of the highways since then and there have been Road Traffic Incidents since then, including one RTA, in the recent past, which involved a woman being cut from her vehicle on the road between the villages. The main road through the village, and in addition Rattlecombe Road, is hazardous for walkers, both visitors and village pedestrians, cyclists and local horse

riders because of its layout and high volumes and excessive speed of traffic at certain times. More traffic associated with more houses will have a negative impact of the local community life. There is no room to add pavements to the lanes in the village.

The main road access into Shenington is from the A422 which is about 2km to the east along an unclassified road which passes through the village of Alkerton before it reaches Shenington. The road is narrow, winding, without a footway and with minimal lighting, there being no less than 100 m between street lights.

The 2015 report identified four hazard points on the main road through Shenington characterized by poor visibility for both walkers and drivers approaching in opposite directions. There are additionally two particularly sharp and blind bends in Alkerton.

The main-road carriageway widths were measured at five points in Shenington and all were less than 4.9m. There are points where the width is as low as 4.2m. The DfT Traffic Signs Manual says: "2.2.6. On rural roads below 5.5 m in width .... Drivers might also expect a road marked with a centre line to be wide enough for opposing lanes of traffic to pass. In these circumstances the centre line should be omitted ...". Thus, the main road in Shenington is insufficiently wide for two vehicles always to be able to pass irrespective of whether there are pedestrians walking on the road.

The D'Arcy Dalton Way and the McMillan Way long-distance footpaths use the main road through Shenington. Separately, the proposed egress from the development onto Rattlecombe Road is hazardous, with limited visibility and the lack of pedestrian facilities referred to above. The width of the road does not allow for two vehicles to pass easily and safely past the proposed junction and the ground surrounding it does not seem to allow for good sight lines for traffic exiting it. Furthermore there is no possibility of adding pavements to enhance pedestrian safety. These limitations will be particularly evident during construction. The highways in the village are completely unsuited to a high volume of heavy construction traffic.

The Professional Assessment of the [Planning] Case Officer, in the Planning and Affordable Housing Statement, made a number of observations as to requirements which do not appear to have been met, such as:

- demonstration of suitable visibility in line with the Manual for Streets requirements;
- vehicle turns in and out of the site without overrunning the centre of the road;
- the requirement for visitor parking;
- the "connecting footway [on Stocking Lane] to provide a safe route to the primary school"; and
- consultation with Oxfordshire County Council prior to application.

On the highways and traffic points alone, this application should fail.

#### *Foul and Surface Water Drainage and Water Supplies*

The pre-application feedback from Cherwell District Council in response to 21/02693/PREAPP, at Appendix 1 of the Planning and Affordable Housing Statement, states clearly that there is a "need to consider foul water when designing your proposals." The applicants have failed to do this in any respect, having even failed, in the 6 months since the first proposals, to contact and receive a map of the sewerage arrangements from Thames Water. The Planning Committee cannot be

misled by this procrastination to address a major issue for the village. In short, the applicant's suggestion that the Planning Committee may trust its assurances that the matter will be dealt with post-approval are not to be trusted.

The inadequacies of the village sewerage system have been reported upon at the time of the previous application. These inadequacies have not been addressed with Thames Water committed to monthly checks down the Sor Valley. An appeal was published in *The Shenington Green* (no. 58, June 2020) asking villagers to be careful what they dispose of into the sewerage system. This was prompted by a villager living at the east end of Shenington where the sewer leaves the village, who had experienced ongoing problems due to the poor capacity. More homes in Shenington will make this worse.

The site of the proposed development is about 1.5 km from the edge of the River Thames catchment area. This means that mains water has to be pumped up to Shenington by Thames Water from much further downstream. There are already many occasions when the water pressure in the village falls significantly. Any further housing will have unacceptable impact on the service.

#### *Local Plan Village Status and Additional Housing*

In Cherwell District Council's Local Plan 2031 ("CLP 2031") and also in their Policy Villages 1, it is clear that Shenington with Alkerton is a village among those with the least capability to deal with anything other than minor development and over the last nearly 30 years the village has accommodated development of nearly 40 properties. Yet, here, in a single application, there is a proposal for 49 further houses and, more to the point, to be built outside of the curtilage of the village in open countryside, it is unsustainable.

The village's status as a Category C settlement cannot accommodate such a massive development and should be dismissed without further consideration, under the Council's own plans and policy requirements, in addition to the Professional Assessment by the Case Officer, included in Elan Homes application, which states the development "would be unacceptable in principle and as such could not be supported."

The Roman Summer report quotes the NPPF in stating that local authorities should "support the development of windfall sites.... giving great weight to the benefits of using suitable sites within existing settlements.." This is typical of much of the application's documentation being misleading, this is not a suitable site and it certainly is not within an existing settlement.

#### *Landscape and Visual Assessment*

The Case Officer also directed that a visual assessment would be required. The LVA provided by the applicant clearly demonstrates that from virtually all angles, including that from the AONB, the site has a clear impact on sight lines.

#### *Amenities*

The primary school in Shenington has few if any spaces left to cater for what is anticipated to be a potentially significant influx of children. This would mean further pressure on the highway network as parents would be engaged in transporting children both ways at key drop off and pick up times. The doctors' surgery, a branch of the Fenny Compton surgery, also has little capacity to take on a significant new development with potentially well over a hundred new patients requiring a surgery. We have no other local facilities such as a shop, garage or post office; any of which are some miles away. Once again this demonstrates the complete lack of consideration of the impact of this development on the existing community.

### *Electricity*

The Western Power website shows that the primary substation “Epwell” (no. 670090) provides power to a wide area including Shenington with Alkerton. The area includes villages such as Tysoe and Hook Norton where there has recently been considerable housing development. The website states that the substation has no Demand Headroom and an inability to reverse power generation. Previously, Western Power has indicated an overall demand shortfall of over 6 MVA. There seems therefore to be insufficient capacity to serve any extra housing developments particularly with the likely rise in the usage of electric cars increases. There are regular power outages and the local infrastructure seems fragile to say the least.

### *Contamination*

Elan Homes commissioned a report from Discovery CE, geotechnical and environmental engineers to conduct a soil survey. This survey concluded that there are excessive levels of Arsenic, Nickel and Vanadium present in the soil which required “a remediation strategy be compiled for the site and submitted to the relevant local authority”. There seem to be no evidence of that strategy document and it is clear that the engineers think that there is a requirement for at least 60 centimetres of clean, neutral top soil to be provided over the whole site on uncovered ground. A question, given this, must arise on any work that is to be undertaken and, more importantly, has already been undertaken on this site by contractors. Did those who commissioned the work notify the contractors of these matters, given that excavation works have taken place since the report’s production in November 2021?

### *Connectivity*

Fibre optic cables have been installed as far as a street cabinet near the war memorial in Alkerton. Copper cables serve Shenington from that point. It is about 1 km from the cabinet to Stocking Lane, near the school, which is representative of the proposed development. The bandwidth numbers are highly variable with a typical level of input at 27 Mb/s and upload 5 Mb/s. Additional houses will create a further reduction of the already poor levels of bandwidth.

<< End of Parish Council comments >>

### OTHER CONSULTEES

- 7.3 OCC HIGHWAYS: **Objection** for the following reason: The proposed residential development is not considered sustainable from the transport perspective. The proposed development lacks adequate transport infrastructure needed at above location in support of pedestrian, cycle trips and the level of Public transport services provision for residents without ownership or access to cars.
- 7.4 OCC DRAINAGE (as LLFA): **Objection** for the following reason:
- Clarification required on the 10% urban creep.
  - Drainage strategy drawing to be detailed.
  - Calculations to be more detailed.
  - Surface water flood exceedance plan to be provided.
  - A detailed surface water maintenance schedule to be provided.

### **Detailed comments:**

Please clarify whether 10% urban creep has been allowed for in the surface water catchment plan and in the calculations.



As part of a full application drainage strategy drawings are expected to be more detailed. Surface water network should include the whole site, also include the drainage around the dwellings. All proposed SuDS need to have the invert and cover levels specified. Provide permeable paving area with the sub-base depth. Provide the discharge rate for the infiltration basin on plan. Include pipe number on the drainage strategy drawing which should correlate with the calculations. All SuDS to be referenced and correlate with the calculations.

Calculations to reflect the drainage strategy drawing as mentioned above. Include the pipe network around the private areas and include all the proposed SuDS accordingly.

Provide surface water flood exceedance plan and demonstrate surface water will be kept away from structures and within the site boundary should the surface water network fail.

Provide a detailed maintenance regime, identifying all maintenance requirements and maintenance frequency for all the proposed SuDS features.

#### 7.5 OCC ARCHAEOLOGY – **Comments** as follows:

This proposal site sits in an area of archaeological interest and potential, as has been outlined in an Archaeological Desk Based Assessment produced as part of this application. The site lies 100m southwest of Scheduled Monument 181 which comprises the best-preserved Medieval ridge and furrow in Oxfordshire, c. 250m south west of the remains of Medieval croft boundaries and 400m west of the remains of the Shrunken village of Shenington. There has been little largescale archaeological investigation in the hinterland of Shenington, and so there is potential for Medieval remains to survive, which could provide information on the development of the settlement.

Prehistoric flint has been recovered from isolated spots south and west of the proposal site (PRN 2180 and 7349). These were recovered as surface finds and not from a formal archaeological excavation, and so there is potential for the development to disturb remains of previously unknown prehistoric activity in the area.

In accordance with the National Planning Policy Framework (NPPF 2021, paragraph 189), we would therefore recommend that, prior to the determination of any planning application for this site the applicant should therefore be responsible for the implementation of an archaeological field evaluation.

This must be carried out by a professionally qualified archaeological organisation and should aim to define the character and extent of the archaeological remains within the application area, and thus indicate the weight which should be attached to their preservation. This evaluation must be undertaken in line with the Chartered Institute for Archaeologists standards and guidance for archaeological evaluation including the submission and agreement of a suitable written scheme of investigation.

This information can be used for identifying potential options for minimising or avoiding damage to the archaeology and on this basis, an informed and reasonable decision can be taken.

If the applicant contacts us at the above address, we shall be pleased to outline the procedures involved, provide a brief upon which a costed specification can be based, and provide a list of archaeological contractors working in the area.

## 7.6 CDC LANDSCAPE – **Comments** as follows:

The LVA submitted with the application concludes the effects of the proposal would be restricted to a localised geographical area and would not result in substantial harm to landscape character beyond the Site boundary, nor would there be substantial detrimental effects to visual amenity across a wide area. The design of the Proposed Development has responded to the landscape and visual context to the Site by retaining boundary vegetation where possible within a framework of new strategic planting to create a sensitive transition between the Site and wider countryside.

The LVA states that the Site has a medium susceptibility to change as a result of the proposed development because: There is similar built development present in the landscape; Some screening is provided by existing vegetation and landform; There are some opportunities for mitigation. The study has also assessed the potential effects on landscape character and concluded that there would be some localised moderate adverse in the short-term, which would become minor adverse in the long-term. I feel that the landscape character of the site would change as a result of the proposed development and not necessarily be consistent with its surroundings and not impinge materially on landscape character beyond the Site - my reasons of which are noted below in response to this and the DAS.

Having visited the village of Shenington and walked the Stocking Land (north) and Rattlecombe Road (east) site perimeter I was able to see how effective the existing vegetation is currently at limiting visibility of the site. However, the length between the existing ironstone wall and where the hedgerow begins is a gap of over 30 metres (which is directly opposite the junction, The Level). As the site is quite well elevated, anything above a couple of metres will be visible from the roadside / footpath during and after the construction work.

It has been mentioned that some existing vegetation is proposed to be removed and as such a Tree / hedgerow removal plan would need to be provided and submitted with adequate mitigation measures put in place.

Also comments on the requirements in respect of LAP/LEAP, perimeter planting and other soft landscaping.

Concludes: the proposal would be overbearing for the village, and with further landscape design / palette materials consideration needed and lack of detailed information provided I cannot support this proposal.

## 7.7 CDC ECOLOGY – **Comments** as follows: the applicants have not submitted a Biodiversity Impact Assessment or demonstrated how the development will achieve a net gain for biodiversity. Currently for developments of this size we request such an impact assessment using a recognised metric. In line with known upcoming legislation and a CDC executive committee decision we seek an overall net gain of at least 10% in biodiversity units. I would recommend therefore that the applicant submits such a calculation along with a demonstration of how a net gain for biodiversity will be achieved on site or demonstrate that they have identified a suitable off site project if this is necessary. This needs to be submitted prior to any decision so we can assess if the proposal is acceptable. In addition, CDC looks for the equivalent of a minimum of one bat/bird/insect provision per dwelling to be integrated into the fabric of the buildings. Whilst this along with other landscaping aspects can be conditioned it is always more productive to have this at least outlined up front for comment and to ensure they can be accommodated in the housing design. Following this submission I can review the ecological information and recommend conditions etc. as required.

7.8 CDC CONSERVATION – **No objections to the principle of development** but has **concerns** over the materials proposed and the treatment of the highway/footpaths that would connect the development to the village.

7.9 CDC ARBORICULTURE – **No objections** subject to conditions (relating to a landscaping plan, retained trees, arboricultural method statement, planting pits). It appears that all the trees are to be retained and fenced off during the development. The only thing that seems to be lacking is a Landscaping Plan. There is sufficient space to plant a significant number of trees which would enhance the development and soften its impact on the surrounding area.

7.10 CDC RECREATION AND LEISURE – **No objection** subject to Section 106 contributions (set out later in this report)

7.11 OCC EDUCATION – **No objection** subject to Section 106 contributions (set out later in this report)

7.12 OCC WASTE MANAGEMENT – **No objection** subject to Section 106 contributions (set out later in this report)

7.13 CPRE – **Strongly objects.**

(1) The proposed development represents an unjustified and inordinate expansion of this historic ironstone Category C village contrary to Policy Villages 1, ESD1, and BSC1 of the CLP 2015 and would harm the historic character and established settlement pattern of this Conservation Village, contrary to policy ESD15 of the CLP 2015.

(2) The proposal does not comprise infilling or conversion within the built limits of a Category C settlement. Therefore, the proposal is contrary to the Council's rural housing strategy, as outlined in Policies ESD1, BSC1 and Policy Villages 1 of the CLP, which seeks to deliver the housing growth in the district in the most sustainable manner reducing the need to travel and the impact on climate change and Government guidance in the National Planning Policy Framework which seeks to encourage sustainable patterns of growth.

(3) The proposed dwellings, by virtue of their number, layout, scale, siting, design and proposed materials are considered to represent an unsympathetic form of development that has a poor relationship with the existing built form of the village and through the introduction of this amount of development in this location would result in visual harm to the open, rural character of the area and village setting, and significant harm to the setting and significance of the Conservation Area, contrary to Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies C23, C27, C28 and C30 of the Cherwell Local Plan 1996 of the Cherwell Local Plan 1996 and Government guidance in the National Planning Policy Framework. It is also not clear whether the existing ironstone wall to Rattlecombe Road would be lost or compromised.

(4) The proposal would result in a development where future occupiers would be highly reliant on the private car for day-to-day needs. And further, they would be required to negotiate dangerous approach roads, with steep gradients, sharp bends and no pavements. The additional traffic from this development would exacerbate an already poor situation to the detriment of the highway safety of all users, existing and proposed. This is contrary to CLP Policy SLE4 and saved LP policy TR7.

(5) The proposal would introduce a dangerous new junction to Rattlecombe Road to the detriment of highway safety, by virtue of being within close proximity to the 60mph speed limit change, located opposite regularly parked cars to an historic terrace of cottages, on a stretch of road with changes in gradient and

alignment that restrict visibility. The application is therefore not in accordance with the NPPF. It is also noted that no up to date speed survey has been undertaken in the vicinity of the application site.

- (6) The proposal would exacerbate the already poor infrastructure provision in the village, principally foul waste drainage, drainage generally, and broadband speed. These provisions are known locally to be already compromised. In terms of drainage, both foul waste and surface water, the proposal is therefore contrary to Policies INF1 and ESD7 of the CLP (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.

#### 7.14 Thames Water – **Comments** as follows:

With the information provided, Thames Water has been unable to determine the Foul water infrastructure needs of this application. Thames Water has contacted the developer in an attempt to obtain this information and agree a position for FOUL WATER drainage, but have been unable to do so in the time available and as such, Thames Water request that the following condition be added to any planning permission. “No development shall be occupied until confirmation has been provided that either:- 1. Foul water Capacity exists off site to serve the development, or 2. A development and infrastructure phasing plan has been agreed with the Local Authority in consultation with Thames Water. Where a development and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan, or 3. All Foul water network upgrades required to accommodate the additional flows from the development have been completed. Reason - Network reinforcement works may be required to accommodate the proposed development. Any reinforcement works identified will be necessary in order to avoid sewage flooding and/or potential pollution incidents.

The application indicates that SURFACE WATER will NOT be discharged to the public network and as such Thames Water has no objection, however approval should be sought from the Lead Local Flood Authority. Should the applicant subsequently seek a connection to discharge surface water into the public network in the future then we would consider this to be a material change to the proposal, which would require an amendment to the application at which point we would need to review our position.

- 7.15 Thames Valley Police – **Unable to support the application** in its current form on the grounds of concerns regarding boundary treatments and surveillance; also the submitted Design and Access Statement does not adequately address crime and disorder.
- 7.16 Oxford Clinical Commissioning Group – **Requests financial contributions** as part of a Section 106 agreement (see later section in this report for details of that request)
- 7.17 Berkshire, Buckinghamshire, Oxfordshire Wildlife Trust – **Objects** on the grounds that the application does not provide evidence of a net gain in biodiversity. There is no Ecology Report or Net Gain Analysis provided with the documentation and it is therefore impossible to assess whether or not a Biodiversity Net Gain is likely to be achieved and we therefore consider that the current application contravenes the policies quoted above and should be refused. An Ecology Report and a working copy of the full set of data e.g. the metric spreadsheet itself, or a copy of its contents, should be provided and made available on the planning website to allow consultees to analyse the figures and comment as appropriate.

7.18 Environment Agency – Declines to comment

## **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 ('CLP 2015') was formally adopted by Cherwell District Council in July 2015 and provides the strategic planning policy framework for the District to 2031. The CLP 2015 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)

- Policy PSD 1 – Presumption in favour of Sustainable Development
- Policy SLE 4 – Transport Connections
- Policy BSC 1 – District Wide Housing Distribution
- Policy BSC 2 – The Effective and Efficient use of land
- Policy BSC 3 – Affordable Housing
- Policy BSC 4 – Housing Mix
- Policy BSC 10 – Open Space, Outdoor Sport and Recreation provision
- Policy BSC 11 – Local standards of provision – Outdoor Recreation
- Policy BSC 12 – Indoor Sport, Outdoor Sport and Recreation provision
- Policy ESD 1 – Mitigating and Adapting to Climate Change
- Policy ESD 2 – Energy Hierarchy and Allowable Solutions
- Policy ESD 3 – Sustainable Construction
- Policy ESD 4 – Decentralised Energy Systems
- Policy ESD 5 – Renewable Energy
- Policy ESD 6 – Sustainable Flood Risk Management
- Policy ESD 7 – Sustainable Drainage Systems
- Policy ESD 8 – Water Resources
- Policy ESD 10 – Protection and Enhancement of Biodiversity and the Natural Environment
- Policy ESD 12 – Cotswold Area of Outstanding Natural Beauty
- Policy ESD 13 – Local Landscape Protection and Enhancement
- Policy ESD 15 – The Character of the Built and Historic Environment
- Policy ESD 17 – Green Infrastructure
- Policy Villages 1 – Village Categorisation
- Policy INF 1 – Infrastructure

### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C8 – Sporadic development in the open countryside
- H18 – New dwellings in the open countryside
- C28 – Layout, design and external appearance of new development
- C30 – Design control
- ENV1 – Environmental Pollution

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- Shenington and Alkerton Conservation Area Appraisal (Feb 2009)

- Cherwell Residential Design Guide SPD (July 2018)
- Cherwell Developer Contributions SPD (February 2018)
- Cherwell First Homes Interim Policy Guidance Note
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)

## 9. APPRAISAL

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

- Principle of development
- Impact on the character of the area and landscape
- Design and layout
- Trees/landscape/open space
- Housing Mix/Affordable Housing
- Impact on Heritage Assets
- Residential amenity
- Transport
- Noise, Contamination and Air Quality
- Ecology impact
- Flood Risk and Drainage
- Sustainability and Energy Efficiency
- Effect on Infrastructure/Planning Obligations

### Principle of Development

#### *Policy Context*

9.2. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. A key material consideration is the National Planning Policy Framework (NPPF) which sets out the Government's planning policy for England. The NPPF is supported by Planning Practice Guidance (NPPG).

9.3. The NPPF explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

9.4. So that sustainable development is pursued in a positive way, the NPPF includes a 'presumption in favour of sustainable development' (para. 10). Paragraph 11 states that applying the presumption to decision-making means:

- c) *approving development proposals that accord with an up-to-date development plan without delay; or*
- d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites), granting permission unless:*
  - i. *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed;*

- ii. *or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

- 9.5. The position in which the most important policies are considered to be out-of-date because of the absence of a five-year housing land supply is often referred to as the 'tilted balance'.
- 9.6. Paragraph 12 advises, *'The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.'*
- 9.7. Section 5 of the NPPF covers the issue of delivering a sufficient supply of homes and states, *'To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay'*.
- 9.8. Paragraph 74 highlights the need for Local Planning Authorities (LPAs) to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old (unless these strategic policies have been reviewed and found not to require updating as in Cherwell's case). The supply of specific deliverable sites should, in addition, include a buffer - 5% in Cherwell's current circumstances (moved forward from later in the plan period).

#### *Development Plan*

- 9.9. The Development Plan for this area comprises the adopted Cherwell Local Plan 2011-2031 ('CLP 2015') and the saved policies of the Cherwell Local Plan 1996.
- 9.10. Policy PSD1 of the CLP 2015 embeds a proactive approach to considering development proposals to reflect the presumption in favour of sustainable development. It states, *'The Council will always work proactively with applicants to jointly find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area'*.
- 9.11. The CLP 2015 seeks to allocate sufficient land to meet district-wide housing needs. The Plan states, *'The most sustainable locations for growth in the District are considered to be Banbury, Bicester and the larger villages as identified in Policies Villages 1 and Villages 2 as these settlements have a range of services and facilities, reducing the need to travel by car'*.
- 9.12. Policy BSC1 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.
- 9.13. Paragraph E.10 of the Plan states, *'Housing delivery will be monitored to ensure that the projected housing delivery is achieved. The District is required by the NPPF and*

*the NPPG (to maintain a continuous five year supply of deliverable (available, suitable and achievable) sites as well as meeting its overall housing requirement'.*

- 9.14. Cherwell's five-year housing land supply position was reviewed in the 2021 Annual Monitoring Report (AMR). Despite a strong record of delivery since 2015, the AMR presents a 3.8 year supply position for 2021-2026 and 3.5 years for the period 2022-2027 (the latter being effective from 1 April 2022). An additional 2,255 homes would need to be shown to be deliverable within the current 2022-2027 five-year period to achieve a five-year supply as required by the NPPF.
- 9.15. Paragraph E.19 of the Local Plan states, "*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*".
- 9.16. The Council's latest assessment of housing land availability is its 'HELAA' published in 2018. This is a technical rather than a policy document but provides assessments of potentially deliverable or developable sites; principally to inform plan-making. The site does not feature in that document. However, the land to the south does, as site HELAA193, and was not considered to be suitable or achievable for housing. The comments in bold are relevant to the application site:

***Greenfield site outside the built-up limits. Shenington is a Category C village in the adopted Local Plan Part 1, the category of the least sustainable villages in the district. The adopted Cherwell Local Plan does not direct additional development (10 or more dwellings or small scale employment) at Category C villages other than extensions to existing employment sites. The site is considered to be unsuitable for development as it would have an unacceptable impact on the character of the village and its open countryside. The eastern boundary of the site borders the Conservation Area. The south western portion of the site lies within the Northern Valleys Conservation Target Area. With regard to assisting Oxford with its unmet housing need, Shenington lies outside Areas of Search A and B. (2018 HELAA, Appendix 4)***

- 9.17. Policy Villages 1 of the CLP 2015 provides a framework for housing development in the rural areas of the district and groups villages into three separate categories (A, B and C). The categorisation of villages was informed by a defined range of sustainability criteria (CLP para C.255). Shenington is a Category C village and is considered among the least sustainable villages in planning terms.

#### *Assessment*

- 9.18. Shenington is a Category C village, which the Local Plan identifies as being the least sustainable settlements in planning terms. Policy Villages 1 states that 'infilling' and 'conversion' are the only types of residential development permissible at Shenington and other Category C villages. The policy states that, "*only Category A and Category B villages will be considered to be suitable for minor development in addition to infilling and conversions*". The proposal therefore conflicts with Policy Villages 1. Policy Villages 2 only applies to Category A villages.
- 9.19. The Council's housing strategy as set out in the Local Plan (in particular Policy BSC1) is to distribute growth to the most sustainable locations and deliver development that seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce dependence on private cars. This strategy is also reflected in Policy ESD1.



- 9.20. Shenington benefits from a primary school and a public house, as well as a doctors' surgery which opens weekday mornings and Wednesday afternoons (a total of c.23 hours a week) but not at the weekends. The village does not have a food shop or post office or any other shops. Future residents of the proposed development (and all those who work) would therefore have to travel out of the village to meet most of their day to day needs. There is a bus service, which stops twice a day during the week but not after 2pm. Public transport does therefore not present a viable option. The local highway authority comments: "...the existing bus service in Shenington is insufficient to enable any meaningful bus modal share from the proposed development, neither is the proposed development large enough for sufficient improvement to the bus service to mitigate this deficiency."
- 9.21. In terms of access to services and facilities, whilst there are other villages and towns in the area, given the distances from the application site and the nature of the road and footpath networks walking would not be an attractive option. It is likely that travel would invariably involve regular journeys by the private motor vehicle which is the least sustainable mode of transport. Consequently, it is considered that the dwellings would be isolated from services and not in a sustainable location.
- 9.22. The Council's housing land supply position, at less than five years, renders Policies BSC1 and Villages 1 'out of date'. As such these policies are to be given less weight in the consideration of planning applications, and the 'tilted balance' applies, that is the presumption in favour of sustainable development. In the absence of a 5 year land supply and in the context of the NPPF objective to significantly boost the supply of homes there is clearly a current housing need to be met.
- 9.23. However, recent case law has made clear that, even where development plan policies are rendered 'out of date' by housing land shortfalls, they remain 'potentially relevant' to the application of the tilted balance and decisions makers are not 'legally bound to disregard them'. Moreover, case law has established that the provisions of the NPPF remain subordinate to the overriding principle established by section 38(6) of the Planning and Compulsory Purchase Act 2004 that decision-makers must have first regard to the terms of the development plan policies.
- 9.24. Notwithstanding the above, the key test is whether the proposal would amount to sustainable development and the site's poor sustainability credentials weigh against the proposals.

#### *Conclusion*

- 9.25. The proposals conflict with Policies BSC1 and Villages of the CLP 2015. In the context of the Council's housing land supply position (3.5 years), these policies are to be afforded weight and the presumption in favour of sustainable development applies. However, the site is not in a sustainable location and the proposals therefore conflict with the aims and objectives of the NPPF, as well as Policy ESD1 of the CLP 2015, and the proposed development would be a scale and nature which would not encourage sustainable forms of growth which reduces the need to travel.

#### Impact on the character of the area and landscape

##### *Policy context*

- 9.26. The Government attaches great importance to the design of the built environment within the NPPF. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. It goes onto note that planning decisions should contribute to and enhance the local environment by recognising the intrinsic character and beauty of the countryside. It also states that development should function well and add to the

overall quality of the area and by sympathetic to local character and history, including the surrounding built environment and landscape setting.

- 9.27. Saved Policy C8 seeks to resist new sporadic development in the open countryside. Saved Policy C28 of the CLP 1996 states that *control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the context of that development.* Furthermore, saved Policy C30 of CLP 1996 states *control will be exercised to ensure that all new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.*
- 9.28. Policy ESD13 of the CLP 2015 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.* It goes on to state that proposals will not normally be permitted if they would cause undue visual intrusion into the open countryside, cause undue harm to important natural landscape features, be inconsistent with local character, or harm the setting of settlements or buildings.
- 9.29. Policy ESD15 of the CLP 2015 highlights the importance of the character of the built and historic environment. This Policy states, amongst other things, that *successful design is founded upon an understanding and respect for an area's unique built, natural and cultural context. New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design.* The Policy continues by stating that new development proposals should, amongst other things, *contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and respecting local topography and landscape features, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views.* Development should also *respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly defined active public frontages.*
- 9.30. The Cherwell Residential Guide SPD (2018) builds on the above policies and provides a framework to deliver high quality locally distinctive development.

#### *Assessment*

- 9.31. The site is within the Oxfordshire Wildlife and Landscape Study 2004 landscape type 'Wooded Pasture Valleys & Slopes', which is described as including pastoral and wooded landscapes and extending over steep-sided valleys with valleys of small streams and main rivers. Along with steep sided valleys its key characteristics are small pasture fields with localised unimproved grassland, small intact villages and hamlets, and tall thick hedges and densely scattered hedgerow trees. The overall strategy is to conserve the characteristic mosaic of woodland and grassland along the valley sides and bottoms, as well as the unspoilt vernacular character of the villages.
- 9.32. The application is accompanied by a Landscape and Visual Impact Assessment (LVA), which finds that the site is not subject to statutory landscape designation, and there are no TPOs covering the site, though the study area does include parts of the nearby Cotswolds Area of Outstanding Natural Beauty and Upton House Registered Park and Garden. The susceptibility of the Cotswolds AONB to change is seen as medium. The Site lies approximately 930m to the east of the Cotswolds AONB but is part of its setting. From Upton House Registered Park and Garden views towards the Site are screened by woodland, parkland and ornamental tree and shrub planting.

- 9.33. Thirteen representative viewpoints have been assessed from publicly accessible locations in the proximity of houses, PRoW and roads. The Council's landscape officer advises that, *"the selected 13 representative viewpoints have incorporated the obvious elevated views whereby the development site may be seen"*. She advises that, *"the greatest level of visual effects would be experienced by the closest receptors: primarily users of Rattlecombe Road to the east, Stocking Lane to the north and surrounding residential properties, including the village school. Beyond this, existing vegetation along the site boundaries and within the wider landscape provides some filtering"*.
- 9.34. During construction the overall effect on these receptors would be up to moderate adverse. Long-term adverse effects would be restricted to those receptors close to the site where the residual effect in most instances would be moderate or minor adverse. The LVA states that the effects of the proposed development would be restricted to a localised geographical area and would not result in substantial harm to landscape character beyond the Site boundary, nor would there be substantial detrimental effects to visual amenity across a wide area.
- 9.35. The LVA states that the Site has a medium susceptibility to change as a result of the proposed development because: There is similar built development present in the landscape; Some screening is provided by existing vegetation and landform; There are some opportunities for mitigation. The study has also assessed the potential effects on landscape character and concluded that there would be some localised moderate adverse in the short-term, which would become minor adverse in the long-term.
- 9.36. The Council's Landscape Officer has visited the village and walked the Stocking Lane (north) and Rattlecombe Road (east) site perimeter. It is noted that the existing vegetation is currently effective at limiting visibility of the site. However, the length between the existing ironstone wall and where the hedgerow begins is a gap of over 30 metres (which is directly opposite the junction, The Level). As the site is quite well elevated, anything above a couple of metres would be visible from the roadside / footpath during and after the construction work.
- 9.37. It must also be noted that the proposal would result in a particularly large increase to the size of the village and in this way would be out of keeping with the form and pattern of development.

#### *Conclusion*

- 9.38. Overall, officers consider that, while the landscape character of the site would change as a result of the proposed development and would not necessarily be consistent with its surroundings from a landscape and visual perspective, the proposal would not significantly affect the character of the wider landscape and would not result in substantial harm to landscape character in the wider setting. That said, it would have an urbanising impact on the site and its immediate surrounds, and would result in a substantial increase in the size of the village, out of keeping with the form and pattern of development, to the detriment of the character of the settlement, and in this regard would conflict with Policy ESD15 of the CLP 2015.

#### Design and layout

- 9.39. The application is made in full and therefore the detailed design and layout of the development stands to be assessed.
- 9.40. The development would be accessed from Rattlecombe Road. To one side of the road would be a small area of public open space with a SUDS feature occupying a

larger area of land to the right. There would be no dwellings within 40 metres of Rattlecombe Road; there would be five detached dwellings between Rattlecombe Road and the reinstated historic hedgerow. The layout would comprise a large cul de sac with a secondary cul de sac off the main road through the development. The development has an informal layout, which is not itself considered objectionable in the context of which the site is located.

- 9.41. Of the 49 dwellings, 18 would be detached and 25 semi-detached (there are 6 flats among the 22 pairs of semis). There would be two short terraces of three dwellings - all of those being affordable dwellings.
- 9.42. The Cherwell Residential Design Guide sets out (see Section 6.2) that the majority of buildings in new developments should be arranged in a terraced form to create a near continuous built frontage to the street. Here the majority of the dwellings visible from Rattlecombe Road and Stocking Lane would be detached, and in this way the proposal would not be locally distinctive. The built form on the aforesaid two roads is generally detached or semi-detached, which limits the proposal's impact in this respect, though the propensity for detached dwellings in the development does weigh against the proposals.
- 9.43. The majority of dwellings in the development either have a front projecting gable or a half dormer, both of which the Cherwell Residential Design Guide seeks to avoid (see Section 6.5), which counts against the proposals. There is no particular variation in the width of building frontages, though there is some consistency in building lines.
- 9.44. Unfortunately, several of the house types have considerable plan depths (see Section 6.5 of the Design Guide) – this includes the Bordesley (7.85m), the Malham, Marford and Cortland (all 7.96m), the Brocton (8.9m) and the Sutton (8.95m). These are excessive plan depths especially in cases where they would be visible from the public realm, and various of the house types have roof pitches that are too shallow; these matters weigh against the proposals. Unfortunately, there are no real vista stoppers – and where they exist they tend to be the Bordesley house type which has a front projecting gable and an excessive plan depth. There is only one house type, the Finham, which 'turns the corner'. Close boarded fences would be visible from the public realm, which is poor design and which the Design Guide seeks to avoid (see Section 6.7).
- 9.45. The appropriate use of materials makes a significant difference to the appearance of a development and can sometimes mitigate for other deficiencies. Unfortunately, in this instance the proposed materials conflict with the Cherwell Residential Design Guide in several respects. Many of the dwellings have a mix of materials, which is not locally distinctive and which the Design Guide seeks to avoid (see Section 7.3). Nine detached dwellings have front facades or front gables proposed in a cast stone; none of the development is proposed in natural ironstone. Many of the dwellings (e.g. Plots 6-14, 27, 28, 43-47) are proposed in buff brick, which is poor and not locally distinctive.
- 9.46. The tiles proposed are "grey clay roof tiles" – if these were slate blue/grey clay tiles then this may be appropriate (see Page 110 of the Design Guide). Chimneys are conspicuous by their absence and their absence weighs against the development (see Section 7.4.2 of the Design Guide), while many of the dwellings are proposed with fascias and bargeboards, which should not be used, and this also weighs against the proposal.
- 9.47. Much of the parking for the development is located to the fronts of the dwellings, which is not supported by the Design Guide and is not considered acceptable.

- 9.48. Overall, the design of the proposed development is poor – it is not locally distinctive and it includes many elements expressly mentioned in the Design Guide as not being acceptable. The proposal thus runs contrary to Policy ESD15 of the CLP 2015, the Cherwell Residential Design Guide and Government guidance in the NPPF.

#### Trees/landscape/open space

- 9.49. The design of the proposed development responds to the landscape and visual context to the site by retaining boundary vegetation where possible within a framework of new strategic planting to create an acceptable transition between the site and the wider countryside. The application submission notes at paragraph 7.17 that the existing vegetation on the boundaries of the site would be retained and protected during construction, although construction of the main site access would require the removal of part of the existing hedgerow along the site frontage to Rattlecombe Road. It is proposed to reinstate an historic field boundary hedgerow within the site, as well as the reinstatement of an ironstone wall along the site's boundary with Rattlecombe Road. Both are positives of the scheme.
- 9.50. The Council's landscape officer (LO) comments that the proposed LAP/LEAP may be better located to the northern edge of the site, where plots 15-22 are shown, and that its current location is "not ideal" but stops short of objecting to the proposals on this basis.
- 9.51. The LO advises that any permission given would need to be subject to a tree/hedgerow removal plan and adequate mitigation measures would be required. She advises that a full planting schedule would also be required, along with tree pit details, a landscape management plan / LEMP and hard landscape details along with a product specification. The LO comments that additional hedgerow planting should be required and that the landscaping proposals should include additional groups of trees within the POS between the perimeter hedge and SuDS to help reinforce and strengthen screening, as well as wildlife habitat enhancement and provision of a connected corridor of green infrastructure across the site. She also advises that the existing perimeter planting to the rear of plots 1-18 may need strengthening with native species, and needs not to be within the curtilage of those plots in order that it is not removed at a later date.

#### Housing Mix/Affordable Housing

- 9.52. The NPPF advises that in order to create sustainable, inclusive and mixed communities, Local Planning Authorities should plan for a mix of housing, reflect local demand and set policies for meeting affordable housing need. Policy BSC4 of the CLP 2015 requires new residential development to provide a mix of homes in the interests of meeting housing need and creating socially mixed and inclusive communities.
- 9.53. The housing mix sought under Policy BSC4 would, for a development of 49 dwellings, amount to 7no 1 beds (5no Affordable and 2no Market), 15no 2 beds (6no Affordable and 9no Market), 20no 3 beds (6no Affordable and 14no Market) and 7no 4-5 beds (1no Affordable and 6no Market).
- 9.54. The mix proposed is different to this: 6no 1 beds (4no Affordable and 2no Market), i.e. one less 1 bed Affordable; 14no 2 beds (7no Affordable and 7no Market), i.e. one more 2 bed Affordable and two less 2 bed Market; 17no 3 beds (6no Affordable and 11no Market), i.e. three fewer 3 bed Market; and 12no 4-5 beds (none of which are Affordable). At the current time, therefore, the proposal conflicts with Policy BSC4 in not providing an acceptable housing mix.

- 9.55. The changes required to the housing mix for the development are 1no 4 bed Affordable Dwelling, 1no 2 bed Affordable Dwelling to be changed to a 1 bed, and then four of the 4 bed Market Dwellings to be changed to a mix of 2 and 3 beds.
- 9.56. Policy BSC3 requires development within locations such as Sherington to provide 35% affordable housing on site and provides detail on the tenure mix that should be sought. As outlined in the Cherwell First Homes Interim Policy Guidance Note there is now a national requirement for a minimum of 25% of all affordable homes to be provided as First Homes (a new discounted market sale product). As such the tenure mix for affordable homes is
- 25% First Homes
  - 70% Social/affordable rent
  - 5% Intermediate housing such as shared ownership.
- 9.57. The Planning Statement accompanying the application sets out that the development would deliver 35% affordable housing. However, the proposal includes 17no affordable dwellings, which is less than 35%. 18no affordable dwellings would be required in order to achieve 35%. The proposal therefore conflicts with Policy BSC3. The tenure mix of these would be secured in accordance with the policy and guidance outlined above and the standards outlined in the Developer Contributions SPD. This will be secured as a benefit of the scheme through S106 agreement.

### Heritage Impact

#### *Legislative and policy context*

- 9.58. The site is largely outside of, but lies adjacent to, the Sherington Conservation Area. The exception is that the site entrance would be partially within the conservation area. The proposed development may also affect the setting of Grade II listed buildings including Top Farm House and Longworth.
- 9.59. 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.*
- 9.60. 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.
- 9.61. 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.* Policy ESD15 of the CLP 2015 echoes this guidance.

#### *Assessment*

- 9.62. The application has been accompanied by a Historic Environment desk-based assessment. The Council's Conservation Officer (CO) has considered this and assessed the proposals. The CO advises that the proposals would not result in

harm to the listed buildings in the vicinity through development within their setting, and that the main consideration from a heritage perspective is how the proposal would affect the conservation area.

- 9.63. To the north of the site Stocking Lane which was formerly known as Stockin Lane (indicating its former agricultural links) leads out to the former meadow. To the south Rattlecombe Road leads towards Rough Hill with former arable fields on either side. There is later development along both roads leading into/out of the conservation area, but the application site is a remaining part of the open land that would have historically surrounded the village. Inevitably, therefore, the proposed development would alter the setting of the conservation area. Consideration must be given to whether this development would be harmful to the significance of the conservation area and if so, can this harm be weighed against the public benefit of the proposals.
- 9.64. The CO agrees with the Landscape Officer that the development would not be greatly visible within the wider landscape, and therefore advises that the setting of the conservation area in the wider context would not be negatively affected. More locally the development would alter the approach into the conservation area along Stocking Lane and Rattlecombe Road, the latter being one of the main routes into the village. The CO advises that the significant set back of the dwellings from the road, together with the improvement of the existing wall and the retention of existing hedgerows and planting along both roads, the proposed development would *in principle* preserve the character of the conservation area. However, the CO advises that in order for the development to be acceptable in heritage terms the materials palette would need significant amendment and careful treatment of the highway and footpaths that connect the development to the village would be required.
- 9.65. In light of the CO's advice, it is considered that by virtue of its design and materials, the current proposal would fail to preserve the character and appearance of the Conservation Area, and thus fails to accord with Policy ESD15 of the CLP 2015 in this regard, though this harm is capable of being addressed through an appropriate palette of materials, e.g. the use of natural stone for walls, natural slate for roofs, and the omission of render, and e.g. the inclusion of chimneys.
- 9.66. The OCC Archaeology Officer (AO) notes that the site is located in an area of archaeological interest and potential, as has been outlined in an Archaeological Desk Based Assessment produced as part of this application. The site lies 100m southwest of Scheduled Monument 181 which comprises the best-preserved Medieval ridge and furrow in Oxfordshire, c. 250m south west of the remains of Medieval croft boundaries and 400m west of the remains of the Shrunken village of Shenington.
- 9.67. The AO notes that there has been little large-scale archaeological investigation in the hinterland of Shenington, and so there is potential for Medieval remains to survive, which could provide information on the development of the settlement, and that there is potential for the development to disturb remains of previously unknown prehistoric activity in the area.
- 9.68. The AO thus requests the implementation of an archaeological field evaluation prior to the determination of the planning application.
- 9.69. In the absence of said field evaluation, the proposal fails to safeguard archaeological interests and therefore conflicts with Policy ESD15 of the CLP 2015 in this regard, as well as Government guidance in the NPPF.

### Residential amenity

- 9.70. Policy ESD15 advises of the need for new development to consider the amenity of both existing and future development and this reflects the NPPF which requires a good standard of amenity for all existing and future occupants of land and buildings.
- 9.71. The proposed dwellings fronting Stocking Lane would all be a sufficient distance from existing properties thereon so as not to affect their amenity. The separation distance between Plot 18 and Nos. 9 and 10 Stocking Lane is considered sufficient, as would the distance between Plots 4-8 to Nos. 11 and 12 Stocking Lane, and the distance between Plots 1 and 2 to Garters. Provided the east-facing first floor windows in Plot 1 are obscurely glazed the living conditions of The Leys would also be safeguarded. The proposed development would be sited at a sufficient distance from residential neighbours on Rattlecombe Road for none to be significantly or adversely affected.
- 9.72. Within the development the proposal generally allows for sufficient separation distances between dwellings (e.g. the distance between Plot 25 and Plot 36 is c.23 metres. However, the spatial relationship between Plots 9-12 and 15-16 is uncomfortable with mutual overlooking likely, and the occupiers of Plot 18 would be able to overlook the gardens of Plots 15-16. On balance, these impacts are considered by themselves not to warrant refusal of the application. Of more concern is the distance between Plot 20 and Plot 21, which falls short of the 22m required. The impact of each of these dwellings on the other, in particular from the south-facing first floor window in the gable projection of Plot 20, would conflict with Policy ESD15 of the CLP 2015 and weighs significant against the proposal. In addition, Plots 17 and 20 have side-facing first floor windows in these gable projects looking over the gardens of Plot 18 and 19 respectively. The same is true of Plot 27 towards Plot 28. If these side-facing windows is removed the issue is capable of being addressed but as currently proposed these impacts would be demonstrably harmful and conflicts with Policy ESD15 of the CLP 2015.
- 9.73. Finally, in the case of the relationship between Plot 23 and Plot 38 the impact can be satisfactorily addressed through the obscure glazing of the first floor south-facing window in Plot 23.

### Transport

- 9.74. Oxfordshire County Council as the local highway authority ('LHA') objects to the proposed development but on sustainability grounds (with which CDC officers agree) but not on grounds of highway safety.
- 9.75. The LHA comments that the vehicular access to the site would be from Rattlecombe Road, and that the proposed visibility splays comply with highways standards. The LHA requests the provision of a footpath from the access to connect to the school in the village. However, this would adversely impact on the grass verges on Rattlecombe Road and Stocking Lane, which contribute positively to the character and appearance of the conservation area and the setting of the listed buildings mentioned earlier in this report, and so would not be sought by planning officers. It is noted that the LHA does not object to the application on the grounds of non-provision of the footpath and it is therefore considered that its non-provision would not amount to a refusal reason.
- 9.76. The LHA advises that the existing road network surrounding the site is very narrow and devoid of footways to accommodate the anticipated uplift of pedestrian, cycle



and vehicle trip impacts on the highway generated by the proposal. The LHA advises that due to the nature of the historic street network with poor junction and forward visibility, and in the absence the footways along the road network adjacent to the development site, pedestrians and cyclists would have to compete on the existing narrow roads with vehicle traffic to the Shenington village and beyond, thus exacerbating the potential for road accidents for the residents. Again, however, the LHA does not object on these grounds.

9.77. The LHA advises that the footpath on Stocking Lane opposite the proposal's Stocking Lane access for pedestrian and cyclist is substandard for pedestrian and cyclists. The LHA welcomes the applicant's intention to provide a crossing for residents at that location.

9.78. In terms of traffic impact the LHA advises that the applicant has, "*failed to provide any details on baseline traffic data on the road network within proximity of the development site nor any School related parking stress information on Stocking Lane and in relation to impacts on active travel associated with the proposal in the submitted TA.*"

9.79. The LHA also comments that a swept path analysis will be required for a 11.6 metres-length refuse vehicle passing an on-coming or parked family car throughout the layout, and advises that the carriageway would require widening on the bends to enable this manoeuvre. The LHA also advises that, where there is not a footway adjacent to the carriageway, a 6-metre-wide shared surface block paved carriageway with a minimum 800mm grass margin on either side is required. Such works would adversely impact on the character and appearance of the Conservation Area.

9.80. The LHA advises that no visibility splays are indicated. Junction and Forward Visibility Splays and dimensions must be in accordance with the OCC Street Design Guide and dedicated to OCC if they fall out of the existing highway boundary. A Stage 1 Road Safety Audit in accordance with GG119 (5.46.1) would be required where necessary in advance of planning permission being granted as the findings may result in the red line boundary having to change due to needed road safety remedial measures.

9.81. The OCC Public Rights of Way Officer advises that the proposal would place greater pressure on the public rights of way network outside of the site and that a s106 contribution of £15,000 is requested, to allow the Countryside Access Team to plan and deliver improvements with third party landowners in a reasonable 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 west, south and east of the site. Primarily this would be for the improvement of the surfaces of all routes taking 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.

#### Noise, Contamination and Air Quality

9.82. 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

- 9.83. The application is accompanied by an Air Quality Assessment which outlines that the proposal would not lead to an unacceptable impact on air quality in the area. This has been considered by the Council's Environmental Protection Officer ('EPO') who raises no objection to the scheme on this basis.
- 9.84. A Noise Assessment also accompanies the application and assesses the noise environment of the site. The Council's EPO has reviewed this 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.
- 9.85. In relation to contaminated land the submitted Phase 1 Geo-environmental Desk Study concludes that an intrusive investigation would be required to be undertaken along with any subsequent remediation scheme. This can be secured through condition.
- 9.86. Based on the comments of the Council's Environmental Protection team, the proposal is considered to be acceptable with regards to noise, air quality and contaminated land.

### Ecology Impact

#### *Legislative context*

- 9.87. The Conservation of Habitats and Species Regulations 2017 provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites. Under the Regulations, competent authorities have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:
- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
  - (2) That there is no satisfactory alternative.
  - (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

#### *Policy Context*

- 9.88. 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. It goes on to state 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.

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

9.90. 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.

9.91. 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 ecological assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

#### *Assessment*

9.92. The application is supported by an Ecological Assessment (EA), which the Council's Ecologist (CE) has assessed. The site is not located in any statutory or non-statutory designated site, is dominated by species poor semi-improved grassland and bordered by several species-poor hedgerows, one of which contains several mature trees. No features suitable for roosting bats were noted on site, and the trees were considered to have negligible suitability for roosting bats. The applicant's EA states that loss of the grassland would represent a minor reduction in foraging habitat for bats, but the trees and hedgerows would all be retained with additional tree and hedgerow planting proposed. The EA states that a sensitive lighting design would be needed, to minimise lighting spill onto potential wildlife habitats, amongst other mitigation measures.

9.93. The CE notes that the application is not accompanied by a Biodiversity Impact Assessment or demonstration as to how the development would achieve a net gain for biodiversity. Such an impact assessment is required by CDC for developments of this size, to demonstrate how a net gain for biodiversity would be achieved on site or demonstrate that the applicant has identified a suitable off-site project if this is necessary. This needs to be submitted prior to any decision.

9.94. In addition, we would expect to see a minimum of one bat/bird/insect provision per dwelling to be integrated into the fabric of the buildings. Whilst this along with other landscaping aspects can be required by condition it should be at least outlined as part of the application to ensure such provision can be accommodated in the housing design.

9.95. In the absence of the Biodiversity Impact Assessment and any information with regard to bat/bird provision within the dwellings, it is considered that the proposal

fails to comply with Policy ESD10 of the CLP 2015 and Government guidance in the NPPF and is not sustainable development.

### Flood Risk and Drainage

- 9.96. A Flood Risk Assessment is submitted with the application in line with the requirements of Policy ESD6 of the Local Plan and the NPPF, given the site extends to over 1ha in area. Policy ESD7 of the CLP 2015 requires the use of Sustainable Urban Drainage Systems to manage surface water. This is all with the aim of managing and reducing flood risk in the District.
- 9.97. The site is located in Flood Zone 1 in relation to river flooding (the lowest risk of flooding) on the Environment Agency Flood Risk Maps where residential development is considered to be appropriate. The Environment Agency Surface Water Flood Risk Maps indicate that the site is not at risk of surface water flooding.
- 9.98. The Flood Risk Assessment includes an outline drainage strategy, which comprises the use of soakaway techniques, permeable paving, and a private drainage system that would then discharge into the adoptable drainage system within the highway. A large infiltration basin is proposed to the front (eastern end) of the site. The submitted FRA states at para 6.2 that, "Surface water flows from external areas are proposed to be collected via traditional methods including gully's drainage channels and slot drains. The infiltration basin has been adequately sized to accommodate the 100 yr + 40% CC flows based on infiltration rates gathered from site specific intrusive testing by Discovery CE." The FRA does not include a foul sewerage strategy, other than to say that the foul for the development would "connect to the nearest foul public sewer" the location of which is not yet known.
- 9.99. OCC as Lead Local Flood Authority (LLFA) objects to the application on the grounds of lack of information, including (1) clarification as to whether 10% urban creep has been allowed for in the surface water catchment plan and in the calculations; (2) the lack of a detailed drainage strategy drawing for what is a full planning application; (3) detailed calculations to demonstrate that the proposed drainage strategy would be sufficient; and the absence in the submission of (4) a surface water flood exceedance plan, and (5) a detailed surface water maintenance schedule.
- 9.100. Officers have no reason to disagree with the LLFA's advice, and it is therefore concluded that insufficient information has been provided with the application to demonstrate that the proposal would manage surface water run-off effectively and avoid increased flood risk elsewhere. The development is therefore considered to be contrary to policies ESD 6 and ESD 7 in this regard as well as Government guidance in the NPPF.

### Sustainability and Energy Efficiency

- 9.101. 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. However, the water usage requirements of ESD3 are still required to be met and can be controlled by condition. In regard to energy efficiency the Council now seeks to secure in excess of that required under the 2013 Building Regulations. Details of how the buildings will achieve this can be secured through condition.

9.102. The site is within an off-gas area where policies ESD 4 and ESD 5 would apply. The policies require feasibility studies to be submitted for the use of decentralised energy systems and renewable energy, and the Council's response to the applicant's pre-application enquiry drew attention to this requirement. Unfortunately, a feasibility assessment appears not to have been submitted and the application is silent on this matter. This omission weighs against the proposals.

### Impact on Local Infrastructure

#### *Policy Context*

9.103. 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."*

9.104. 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.

9.105. 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*

9.106. 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.

9.107. 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.

9.108. Having regard to the above, in the event that Members were to resolve to grant planning permission, the following items would in officers' view need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts:

Cherwell District Council (all contributions will be index linked)

- Provision of and commuted sum for maintenance of open space (including informal open space, mature trees, hedgerows, woodland, SUDS etc) or details of long term management provisions in accordance with the Policy BSC11 of the CLP
- Provision of a Local Area of Play and commuted sum for maintenance or details of other management provisions
- Off-site outdoor sports facilities capital provision – £98,834.47 – Towards enhancement of outdoor sporting provision in the locality - Based on £2017.03 per dwelling.
- Off-site indoor sports facilities – Towards either enhancement of indoor sports provision at Shenington Village Hall or alternative such provision in the locality - £40,912.39
- Community hall facilities – £65,904.40 – To be spent on improvements/enhancements/redevelopment of Shenington Village Hall or other community building in the locality.
- £106 per dwelling for bins
- Affordable housing provision – 35% (18 units)
- CDC monitoring fee

Oxfordshire County Council (all contributions will be index linked)

- Public transport contribution of £TBC per dwelling to maintain the operation of the bus service serving Shenington.
- Public transport infrastructure contribution of £TBC towards the provision of new bus shelters in the local area.
- Public Rights of Way of £15,000 toward improvements to PROW in the vicinity of the site.
- Obligation to enter into a S278 agreement to secure Highway Works and Traffic Regulation Order (if not dealt with under S278/S38 agreement)
- Travel Plan Monitoring – £TBC
- £311,904 towards secondary education capacity.
- £4,604 contribution towards expansion and efficiency of Household Waste Recycling Centres as existing facilities at capacity and to provide additional capacity.
- Monitoring Fee

Other

- OCCG group have been consulted and stated that there are significant capacity issues serving the area. They have stated there are insufficient consulting rooms to cope with increased population. They therefore request a contribution to support capital projects associated with either local plans for surgery alterations or support patient services at £360 per person, which based on the housing mix proposed in this application would amount to a contribution of £45,360.

### *Conclusion*

9.111 Subject to the above the proposal is considered to be acceptable with regards to its impact on local infrastructure and would acceptably mitigate the impact arising from the development.

## **10. PLANNING BALANCE AND CONCLUSION**

10.1 Planning law requires that development proposals be determined in accordance with the Development Plan unless material considerations indicate otherwise.

10.2 In this instance, the proposal would conflict with the Council's housing strategy as set out in the Development Plan. Sherington is a Category C village, at which only infilling and conversion is permissible, the current proposal being neither of those. Given the Council's housing land supply position (3.5 years), this policy conflict is to be afforded less weight and the presumption in favour of sustainable development applies. However, the site is not in a sustainable location and the proposals therefore conflict with the aims and objectives of the NPPF, as well as Policy ESD1 of the CLP 2015, and the proposed development would be a scale and nature which would not encourage sustainable forms of growth which reduces the need to travel.

10.3 The proposal would have an urbanising impact on the site and its surroundings, and would result in a particularly large increase to the size of the settlement and in this way would be out of keeping with the form and pattern of development, to the detriment of the character of the settlement. In addition, by reason of its form, design and materials, as well as the layout especially with regard to parking typologies, the proposal would adversely affect the visual amenity of the local area and would fail to preserve the character and appearance of the Conservation Area.

10.4 The proposal would not provide an appropriate mix of homes in the interests of meeting housing need and creating socially mixed and inclusive communities, and would not provide an appropriate mix of affordable housing.

10.5 For the reasons set out in this report, the proposal would fail to safeguard the living conditions of future occupiers of the development, and insufficient information has been provided to demonstrate that the proposed development would provide for biodiversity net gain, avoid harm to archaeological interests, manage surface water run-off effectively and avoid increased flood risk elsewhere.

10.6 Turning to other material considerations the Council is not presently able to demonstrate a 5 year land supply and there is therefore a clear and pressing need for new housing to be delivered in the district. In this case paragraph 11(d)(ii) of the NPPF (the 'tilted balance') is engaged, which favours granting planning permission unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF when taken as a whole.

10.7 The provision of 49 dwellings would align with the NPPF objective to significantly boost the supply of new housing and in the context of the Council not being able to demonstrate a 5 year land supply is given significant weight in favour of the proposal. The proposal would also provide 17 affordable homes, which is a matter that carries very significant weight in favour of the proposal, though this is tempered by the unsustainable location of the site. There would also be some economic benefits associated with the development including the jobs through construction and the likely increased spending in local services and facilities stemming from an increase population which carry some weight in favour of the proposal.

10.8 Overall, however, it is considered that the harm identified significantly and demonstrably outweighs the benefits of the proposal, and it is therefore recommended that planning permission be refused.

## 11. RECOMMENDATION

- (A) THAT PLANNING PERMISSION IS REFUSED FOR THE FOLLOWING REASONS SET OUT BELOW; AND
- (B) THAT POWERS BE DELEGATED TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT, HAVING REGARD TO THE HEADS OF TERMS SET OUT WITHIN APPENDIX 1 BELOW (AND ANY ALTERATIONS CONSIDERED NECESSARY), TO NEGOTIATE AND COMPLETE AN AGREEMENT CONTAINING OBLIGATIONS PURSUANT TO S106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) RELATING TO ANY PLANNING APPEAL SUBMITTED AGAINST THE DECISION ISSUED UNDER 22/00489/F.

### REASONS FOR REFUSAL

1. Notwithstanding the Council's present housing land supply position, the proposed development of 49 homes at a Category C village would result in an environmentally unsustainable form of development lacking suitable access to public services and facilities, transport options and employment. The proposal is therefore contrary to Policies BSC1, ESD1 and Villages 1 of the Cherwell Local Plan 2011 – 2031 Part 1, as well as the Council's declared climate emergency and would not accord with Government guidance contained within the National Planning Policy Framework including the requirement to actively manage patterns of growth to make the fullest use of public transport, walking and cycling. This identified harm significantly and demonstrably outweighs the proposal's benefits.
2. By reason of its scale, design and materials, the proposal would adversely affect the visual amenity of the local area and fail to preserve the character and appearance of the Conservation Area through change to its setting. Particular elements which result in this harm include the front projecting gables, half dormers, split materials, the proposed palette of materials, excessive plan depths on some house types, shallow roof pitches on some house types, close boarded fences visible from the public realm, use of fascias and bargeboards, lack of chimneys, and parking located to the fronts of dwellings. The proposal is therefore contrary to Policy ESD15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996, the Cherwell Residential Design Guide, National Design Guide, and Government guidance in the National Planning Policy Framework.
3. The proposal would not provide an appropriate mix of homes in the interests of meeting housing need and creating socially mixed and inclusive communities and would not provide an appropriate mix or the necessary quantum of affordable housing. This harm significantly and demonstrably outweighs the proposal's benefits. The proposal is therefore contrary to Policies BSC3 and BSC4 of the Cherwell Local Plan 2011-2031 and Government guidance in the National Planning Policy Framework.
4. By reason of the distance between Plot 20 and Plot 21, the spatial relationship between Plots 17 and 18, and between Plots 19 and 20, and Plots 27 and 28, and the side facing first floor windows placed in Plots 17, 20 and 27, the proposal would fail to safeguard the living conditions of the future occupiers of the proposed development and the proposal is therefore contrary to Policy ESD15 of the Cherwell Local Plan 2011-2031, saved Policy C30 of the Cherwell Local Plan 1996, the



Cherwell Residential Design Guide and Government guidance in the National Planning Policy Framework.

5. The site is located in an area of archaeological interest and potential, lying 100 metres southwest of Scheduled Monument 181 which comprises the best-preserved Medieval ridge and furrow in Oxfordshire, c. 250m south west of the remains of Medieval croft boundaries and 400m west of the remains of the Shrunken village of Shenington. There is potential for Medieval remains to survive, and potential for the proposed development to disturb remains of previously unknown prehistoric activity in the area. In the absence of a field evaluation of the site it has not been demonstrated that the proposed development would adversely affect archaeological interests and the proposal therefore conflicts with Policy ESD 15 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance within the National Planning Policy Framework.
6. The applicant has failed to demonstrate that the proposed development would deliver biodiversity net gain and has provided insufficient information with regard to bat/bird provision within the dwellings. The proposal therefore fails to comply with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and Government guidance within the National Planning Policy Framework and is not sustainable development
7. The applicant has failed to demonstrate that the proposal would manage surface water run-off effectively and avoid increased flood risk elsewhere, and therefore that an appropriate sustainable drainage strategy for the site utilising sustainable drainage systems (SuDS) can be delivered; and the application has not been accompanied by a foul sewerage strategy. The proposed development is therefore contrary to policies ESD 6 and ESD 7 of the Cherwell Local Plan 2011 – 2031 and Government guidance within the National Planning Policy Framework.
8. In the absence of the completion of a satisfactory Planning Obligation, it cannot be demonstrated that the necessary infrastructure directly required both on and off site as a result of the development can be provided in the interests of safeguarding public infrastructure, delivering mixed and balanced communities through the provision of affordable housing and securing on site future maintenance arrangements. The development is therefore contrary to policies INF1, BSC3, BSC4, BSC9, BSC10, BSC11 and BSC12 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework.

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

<b>Planning obligation</b>		<b>Regulation 122 Assessment</b>	
<b>Detail</b>	<b>Amounts (all to be Index linked)</b>	<b>Trigger points</b>	
Provision of and commuted sum for maintenance of open space (including informal open space, mature trees, hedgerows, new woodland, SUDS, landscape and ecology management plan etc) or details of long-term management provisions in accordance with the Policy BSC11 of the CLP	Provision on site. Commuted sum: <b>£12.65</b> per square metre of Informal Open Space <b>£26.60</b> per linear metre of Hedgerow <b>£280.04</b> per Mature Tree <b>£35.02</b> per square metre of New Woodland <b>£66.05</b> per square metre of the area of balancing ponds comprised in the SUDS; <b>£120.32</b> per linear metre of ditches, watercourses swales and similar features District Council's costs of monitoring the open space land and facilities transferred to the Management Company <b>£15,000</b>	No more than SEVENTY PER CENT (70%) of the Dwellings shall be Occupied until the Practical Completion Certificate has been issued	<p><b>Necessary</b> – To meet the demands generated from the proposal and to ensure long term maintenance in accordance with Policy BSC10 and BSC11 of the CLP 2015 and advice in the Developer Contributions SPD (2018).</p> <p><b>Directly related</b> – For the use of future occupiers of the development.</p> <p><b>Fairly and reasonably related in scale and kind</b> – In accordance with the policy and guidance provisions adopted by the Council.</p>

Provision of a Local Area of Play and commuted sum for maintenance or other management provisions	Provision on site. Commuted sum <b>£41,733.82</b>	No more than SEVENTY PER CENT (70%) of the Dwellings shall be Occupied until the Practical Completion Certificate has been issued	<b>Necessary</b> – To meet the demands generated from the proposal and to ensure long term maintenance in accordance with Policy BSC10 and BSC11 of the CLP 2015 and advice in the Developer Contributions SPD (2018)  <b>Directly related</b> – For the use of future occupiers of the development  <b>Fairly and reasonably related in scale and kind</b> – In accordance with the policy and guidance provisions adopted by the Council
Off-site outdoor sports facilities capital provision –towards the enhancement of outdoor sporting provision in the locality	<b>£98,834.47</b>  Based on £2,017.03 per dwelling	Off-site Indoor Sports Facilities Contribution and the On-site Outdoor Sports Facilities Contribution	<b>Necessary</b> – 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
Off-site indoor sports facilities – Towards either enhancement of indoor sports provision at Shenington Village Hall or alternative such provision in the locality	<b>£40,912.39</b>  <b>£335.32</b> x figure derived from the Occupancy Rate of each Dwelling in the Composition of the Development outlined in table in Appendix of S106	in the following instalments:- 50% prior to the first Occupation of any Dwelling; remainder prior to the first Occupation of 50% of the Dwellings	<b>Directly related</b> – The future occupiers will place additional demand on existing facilities.  <b>Fairly and reasonably related in scale and kind</b> – Calculations will be based on the Developer Contributions SPD calculation based on the final mix of housing and number of occupants.
Community hall facilities – To be spent on improvements/enhancements/redevelopment of Shenington Village Hall or other community building in the locality.	<b>£65,904.40</b>  <b>£2,920</b> x 0.185 (0.185m2 community space per resident) the resultant figure	Community Hall - Prior to the First Occupation of any Dwelling on the Site	

	multiplied by the figure derived from Occupancy Rate of each Dwelling in the Composition of the Development outlined in table in Appendix of S106		
Contributions to bins	£106 per dwelling	50% of the Refuse Contribution to the District Council prior to Commencement  Remainder prior to the first Occupation of 50%	<b>Necessary</b> – The dwellings will require adequate waste receptacles for future occupants and in accordance with the advice in the Developer Contribution SPD  <b>Directly related</b> – The need for these comes from the increase in the number of dwellings  <b>Fairly and reasonably related in scale and kind</b> – Costs in accordance with the advice in the Developer Contribution SPD
Affordable housing provision on site	No less than 35%. Housing mix – at least 70% (seventy per cent) of which shall be provided as Affordable Rented Housing or Social Rented Housing and the remainder as Intermediate Housing or such alternative mix of tenure as at any time may be approved by the District Council	Not Occupy or cause or permit the Occupation of more than fifty per cent (50%) of the Market Dwellings until each area comprising the Affordable Housing Site has been offered to a Registered Provider	<b>Necessary</b> – as would provide housing for those who are not able to rent or buy on the open market pursuant Policy BSC3 of the Cherwell Local Plan  <b>Directly related</b> – The affordable housing would be provided on-site in conjunction with open market housing  <b>Fairly and reasonably related in scale and kind</b> – Based on the Cherwell Local Plan requirement for percentage of affordable housing.

Bus Service contribution	£1,051 x 49 (tbc)	No dwelling to be Occupied until payment to OCC	<p><b>Necessary</b> to ensure sustainable mode of transport and encourage and integrated into the development and made attractive to future users to reduce car dependency.</p> <p><b>Directly related</b> as these will benefit the future occupants of the site and encourage use of sustainable transport options in the locality.</p> <p><b>Fairly and reasonably related in scale and kind.</b> The contributions are in scale with the development and would be directly benefiting residents of the future development.</p>
Public transport infrastructure contribution, towards the provision of new bus shelters in the locality	£TBC	No dwelling to be Occupied until payment to OCC	<p><b>Necessary</b> to ensure sustainable mode of transport and encourage and integrated into the development and made attractive to future users to reduce car dependency.</p> <p><b>Directly related</b> as these will benefit the future occupants of the site and encourage use of sustainable transport options in the locality.</p> <p><b>Fairly and reasonably related in scale and kind.</b> The contributions are in scale with the development and would be directly benefiting residents of the future development.</p>
Public Rights of Way, towards improvements to PROW in the vicinity of the site	£15,000	No dwelling to be Occupied until payment to OCC	<p><b>Necessary</b> to ensure sustainable mode of transport and encourage and integrated into the development and made attractive to future users to reduce car dependency.</p> <p><b>Directly related</b> as these will benefit the future</p>

			<p>occupants of the site and encourage use of sustainable transport options in the locality.</p> <p><b>Fairly and reasonably related in scale and kind.</b> The contributions are in scale with the development and would be directly benefiting residents of the future development.</p>
Obligation to enter into a S278 agreement to secure Highway Works and Traffic Regulation Order (if not dealt with under S278/S38 agreement)			
Education contribution – towards Secondary education capacity	£311,904	TBC	<p><b>Necessary</b> – 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><b>Directly related</b> – The future occupiers will place additional demand on existing facilities.</p> <p><b>Fairly and reasonably related in scale and kind</b> – Calculations will be based on the Developer Contributions SPD calculation based on the final mix of housing and number of occupants.</p>
Waste management – towards expansion and efficiency of Household Waste Recycling Centres as existing facilities at capacity and to provide additional capacity.	£4,604 Indexed from Index Value 327	TBC	

	using BCIS All-in Tender Price Index, and based on a cost per dwelling of £93.96		
Health care – support capital projects associated with either local plans for surgery alterations or support patient services	£45,360, on the housing mix proposed and on the basis of £360 per person	TBC	<p><b>Necessary</b> – 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><b>Directly related</b> – The future occupiers will place additional demand on existing facilities.</p> <p><b>Fairly and reasonably related in scale and kind</b> – Calculations will be based on the Developer Contributions SPD calculation based on the final mix of housing and number of occupants.</p>
Biodiversity offset contribution to mitigated for impacts upon species of wildlife	TBC	TBC	
Travel Plan Monitoring fee	OCC: TBC	On completion of the S106	
CDC and OCC Monitoring fee	CDC: £5,500 OCC: TBC	On completion of the S106	The CDC charge is based upon its recently agreed Fees and Charges A registration charge of £500 is also applicable. OCC to advise on their monitoring costs