

**Case Officer:** Wayne Campbell

**Applicant:** Blue Cedar Homes Limited

**Proposal:** Erection of 6no one storey age restricted dwellings (55 years) for older people with access, landscaping and associated infrastructure - re-submission of 21/04271/F

**Ward:** Cropredy, Sibfords and Wroxton

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

**Reason for Referral:** Called in by Councillor Phil Chapman for the following reasons:

- Nothing substantive has changed since last brought to Committee
- Public interest

**Expiry Date:** 9 December 2022

**Committee Date:** 8 December 2022

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## **SUMMARY OF RECOMMENDATION: REFUSE**

### **1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site is located on the western edge of Sibford Ferris village and covers an area of 0.94ha. The northern and eastern boundaries to the site are marked by existing residential properties while the southern edge of the site is marked by a hedgerow boundary beyond which is a further field which has outline planning permission for up to 25 dwellings approved at appeal under application 18/01844/OUT (and subject of a current Reserved Matters application). To the west the site is marked by Woodway Road and open fields.
- 1.2. The existing houses adjoining the site to the north and east are two-storeys in height while the boundaries between these dwellings are a mix of hedgerows and fences. Other than the hedgerow boundaries the site is an area of open agricultural land, which currently has the appearance of a paddock, but from google maps the site has clearly been used for agricultural use with evidence of ploughing in the past.

### **2. CONSTRAINTS**

- 2.1. The application site is located outside the built form of Sibford Ferris village but abuts the edge of the village. The site has the appearance of an area of open countryside.
- 2.2. The Sibford Ferris Conservation Area boundary lies some 70 metres to the north of the site with existing residential properties on intervening land. The nearest listed buildings within the Conservation Area lie some 175 metres to the north-east of the site located on the main street through the village.

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

- 3.1. The application seeks planning permission for the development of the site for six detached bungalows. Access would be provided off a spur road to link into the approved residential development to the south of the site, and delivery of the

proposed development is dependent upon the provision of the access road to the development to the south. Work on this site is unlikely to commence until this road serving the estate to the south is implemented.

- 3.2. The applicant has confirmed that the bungalows would be age restricted dwellings (55 years) for older people with access, landscaping and associated infrastructure. The bungalows would be controlled by an age restriction of 55 years and above for the occupiers.
- 3.3. The application is a re-submission of a previous application considered by members at the Planning Committee on 7 April 2022 where an officer recommendation to approve permission was overturned and permission refused for the following reasons:
  1. *By reason of its siting outside of the built limits of the settlement, and having regard to the number of dwellings delivered in the rural areas (770 dwellings completed at 31st March 2021), the proposal represents development in an unsustainable location, remote from key amenities, especially for elderly residents. Notwithstanding the Council's present lack of a five year housing land supply the proposal conflicts with Policy BSC1 of the Cherwell Local Plan 2011-2031 and saved Policy H18 of the Cherwell Local Plan 1996 and Government guidance in the National Planning Policy Framework. This identified harm significantly and demonstrably outweighs the proposal's benefits of providing additional housing.*
  2. *By reason of its scale, layout and design, the proposal would be out of keeping with the form and pattern of development in the local area, resulting in significant and demonstrable harm to the character and appearance of the area. The proposal therefore conflicts with 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.*
- 3.4 Following this refusal, the applicant lodged an appeal and an application for costs against the Council. The appeal will be dealt with via an exchange of formal statements between the two parties (submitted to the Planning Inspectorate by 7 October). To date no decision has been made on the appeal nor on the issue of the costs application against the Council.
- 3.5 The applicant has stated that the purpose of this re-submission is to allow the Council to reconsider its decision and grant planning permission. In such circumstances, the applicant would withdraw the appeal and its application for award for costs.

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

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

21/04271/F

Erection of 6no single storey age restricted dwellings (55 years) for older people with access, landscaping and associated infrastructure.

Refused contrary to officer recommendation.

Appeal lodged no decision provided.

(on the adjacent site to the south) 18/01894/OUT

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

Refused and approved on Appeal.

(on the adjacent site to the south) 21/02893/REM

Approval of reserved matters pursuant to condition 1 of planning permission 18/01894/OUT for details of layout, appearance, scale, landscaping, access and parking for 25 dwellings.

Permitted

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

- 5.1. The following pre-application discussions have taken place with regard to this proposal but the response to the pre-application was provided prior to the determination of the previous application by the Planning committee:
- 5.2. Having regard to the Council's current housing land supply position, i.e. less than a 5-year housing land supply, Paragraph 11(d) of the NPPF is engaged; with a presumption of granting planning permission unless such would cause conflict with other policies and would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 5.3. The AMR 2021 highlights that the delivery of developments under 'windfall' developments over the plan period is now at a position where the total number of housing completions and the number of dwellings permitted at sites where development has commenced has exceeded 754 dwellings at 771. In my opinion, the fact that the figure has been exceeded is not a reason to refuse the application, but the impact of the development has to be taken into account. Plans and decisions should apply a presumption in favour of sustainable development.
- 5.4. Overall, it is considered that, in the absence of the necessary supply of housing land at this time, the conflict with the Council's housing strategy and the impact on the character and appearance of the countryside through the development of greenfield land, on its own, would not outweigh the proposal's benefits. In light of current guiding national and local policy and based upon the Council's position in terms of housing land supply, it is considered that in this instance the proposal is considered acceptable.

## **6. RESPONSE TO PUBLICITY**

- 6.1. This application has been publicised by way of a site notice displayed near the site, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **15 July 2022**.
- 6.2. 79 representations have been received: 79 objecting, none supporting and no comments. The comments raised by third parties are summarised as follows:
  - Need – No need for additional housing in the area housing targets already exceeded; unnecessary; too much mass development in the area focused on maximising building companies profit rather than providing good, sustainable, attractive and appropriate housing for locals.
  - Sustainability of location - Inappropriate and unsustainable development extending beyond the built-up limits of the village into the attractive open countryside
  - Sibford Ferris, Sibford Gower and Burdrop erroneously categorised as Category A village and should be reviewed as soon as possible. These villages have poor transport access on narrow minor roads with long distances to key facilities and little public transport

- Location of shop, bus service and the GP surgery, makes the development site unsustainable and will ensure the residents are entirely dependent on their motor vehicles
- CRAITLUS reports from 2009 states "Of 33 Villages only 4 show little capability to sustainably support additional housing. Sibford Ferris/Sibford perform poorly due to their location on minor roads
- Proposed site entrance 900m from village Londis shop, which if accessed by foot, is via incomplete pedestrian footpaths. Where the footpaths do not exist, pedestrians walk on the narrow road competing with motor vehicles. Distance is excessive for elderly pedestrians carrying their shopping.
- Development unsustainable for older persons, Government advice on the location of housing for older people states factors to consider include proximity to good public transport, local amenities, health services and town centres. None of these apply in this instance.
- Impact on the village and on the character and appearance of the area - Along with adjoining site development will increase village by 22%; would further erode charm and character of village and create a considerable strain on the village infrastructure
- Layout, form, design and location unsuitable and would produce an incongruous and cramped form of development, which fails to respond to local character, landscape and surrounding context harming the visual and rural amenities of the area
- Design, incorporating large bungalows with variety of roof pitches, timber boarding and other uncharacteristic features is contrived and takes no design cues from the established and historic character of its surroundings contrary to NPPF
- Small scale nature of Sibford Ferris helps mitigate the effect of built development on 'dark skies' but further residential building will have a negative effect.
- Adverse impact on area of Cotswold AONB and the Conservation Area
- Contrary to Policy C28 of the Cherwell Local Plan 1996, Policy Villages 2 and Policies ESD13 and ESD15 of the Cherwell Local Plan 2011- 2031 Part 1 and Government guidance contained within the National Planning Policy Framework and the National Design Guide
- Loss of prime agricultural land at a time when the Government is urging the country to become more self sufficient in food
- Highway safety / traffic problems
- Previously refused scheme with no alterations to address reasons to refuse the application
- Impact on ecology - Wildlife, flora and fauna are increasingly being depleted by such vast developments.
- Site should be used as a community orchard / wildflower meadow
- Approval would set a precedent for other housebuilders to come forward with other sites
- Increase in flooding due to increase in hard surfaces, inadequate water supply, foul and surface water drainage
- Clearly a phase 2 extension of the development to the south, with phase 3 development site put forward as part of the Local Plan review

- Contrary to the 2012 Community Plan

### 6.3. Sibford Action Group:

- Conflict with the development plan, Cherwell Annual Monitoring Report 2021 confirms that since 2014 a total of 1,062 dwellings have been identified by the Council for meeting the Policy Villages 2 requirement of 750 dwellings. 749 reported to have been built or are under construction, 319 dwellings have permission but not yet started. Therefore, Policy Villages 2 requirement has been met.
- Unsustainable, Parish Council seeking to amend the A classification of the village which is not a true or accurate reflection of the history, community, geography, topography and location of its sparse facilities
- Harm to the landscape, site lies outside built-up limits of the village in an attractive landscape that can be viewed from the Cotswolds Area of Outstanding Natural Beauty. Proposal would lead to a quite densely packed, built development on greenfield, agricultural land beyond the physical extents of Faraday House and the building line of the Hook Norton Road development to the south intruding into the attractive countryside surrounding the village resulting in harm to rural character and appearance of this attractive landscape to the west of the village
- Generating extra traffic on unsuitable roads, occupants of the proposed dwellings, being older, less mobile and less likely to walk or cycle, will be highly reliant on the use of private cars resulting in extra traffic on unsuitable, narrow roads through the village, which lack pavements in many cases and where, in places, it is difficult for two vehicles to safely pass each other
- Poor layout and design, contrary to the NPPF and National Design Guide, design, incorporating large bungalows with a variety of low and other roof pitches, timber boarding and other uncharacteristic features is contrived and takes no design cues from the established and historic character of its surroundings, with the Sibford Ferris Conservation Area just a few metres away to the north of Faraday House. The bungalows sited close together, have very small private amenity spaces appear cramped and out of character with immediate surroundings and the quality of development in the village which is designated as a Conservation Area.
- Accepts Cherwell Council does not have 5-year housing land supply, and this introduces 'tilted balance' under paragraph 11d of NPPF. However, adverse impact outweighs minor benefits of development.

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

## 7. RESPONSE TO CONSULTATION

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

### PARISH COUNCIL

7.2. SIBFORD FERRIS PARISH COUNCIL: **Objects.** The issues raised as part of the previous application reference 21/04271/F are still valid. The reasons to object to the application are as follows:

Although Category A village in the appeal for the Hook Norton Road development the Inspector noted that given the spread of services across each settlement, it is unlikely

that the Development of any site around the Sibfords would readily enable access by sustainable Transport modes. Category A identification may be appropriate in planning terms but fails to reflect the actual nature of the community, geography, topography and location. Sibford Ferris only has a small shop, with the limited other public amenities available in Sibford Gower/Burdrop. The bus service has been reduced to half in recent years over-development; outside the village confines; adding to traffic problems in the area. Development contrary to the Sibford Community Plan 2012. Hook Norton development represent a 17% increase in households, additional 6 units increase this to 21%.

Concerned about sewage. No proven capacity adding further risk. Question why the Severn Trent Water holding objection has been withdrawn in that final details of drainage has not been designed / agreed.

Limited access to appointments and parking at the local surgery; Lack of public transport; Lack of pavements; Lack of Broadband; Poor Water Pressure; and Blocked drains are already a problem in the village.

CRAITLUS Report August 2009 states of 33 Villages Sherington, Sibford Ferris/Sibford Gower and Charlton-on-Otmoor perform poorly due to their location on minor roads with long travel times and distances to access key facilities.

*Due to the wording of the current plan there is a level of ambiguity related to the development figure set for rural development. We understand that the plan talks about providing 750 dwellings in rural areas for the planning period 2011 to 2031 but this is not tightly worded and so open to interpretation as being: a ceiling, a goal, a minimum etc. Since 2014 1062 dwellings identified to meet the Policy Villages 2 and further permissions will exceedance of this target. 8293 permissions granted for homes, which haven't been built yet around Bicester, Banbury and Upper Heyford. Sibford Ferris has a housing density of 148 properties. Concern that the Sibfords potential "developer creep" into this site. Unreasonable for the small settlement of Sibford Ferris to absorb further speculative development.*

Little evidence development would benefit Sibfords residents, likely to attract more older people to a location which already has a higher proportion of older people than national average. The 55 years age restriction would appear to afford open market housing for potential residents. Design unsympathetic to the established historic character of the village, much of which is designated as a Conservation Area. Location of development for older people is unsuitable and would produce an incongruous and cramped form of development, fails to respond to local character. Adverse impact on the local landscape, extending the village built-up footprint to Woodway Road, eroding the existing unspoilt, rural character.

*The proposal is contrary to Policy C28 of the Cherwell Local Plan 1996, Policy villages 2 and Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 part 1 and Government guidance contained within the National Policy Framework and the National Design Guide.*

#### OTHER CONSULTEES

- 7.3. OCC HIGHWAYS: **No objections** subject to conditions
- 7.4. OCC ARCHAEOLOGY: **No objection**
- 7.5. SEVERN TRENT WATER: **No objection** subject to conditions
- 7.6. ENVIRONMENT AGENCY: **No comments** to make on the proposal

- 7.7. CDC CONSERVATION OFFICER: **No objections**
- 7.8. CDC ENVIRONMENTAL HEALTH: **No objections** subject to conditions
- 7.9. CDC ECOLOGY: No response received
- 7.10. CDC PLANNING POLICY: No comments received
- 7.11. CDC LANDSCAPE: No comments received
- 7.12. CDC STRATEGIC HOUSING: No comments received

## **8. RELEVANT PLANNING POLICY AND GUIDANCE**

- 8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2. The Cherwell Local Plan 2011-2031 - Part 1 ('CLP 2015') was formally adopted by Cherwell District Council on 20th 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)

- PSD1: Presumption in Favour of Sustainable Development
- SLE4: Improved Transport and Connections
- BSC1: District Wide Housing Distribution
- BSC2: The Effective and Efficient Use of Land – Brownfield land and Housing Density
- BSC4: Housing Mix
- BSC10: Open Space, Outdoor Sport and Recreation Provision
- BSC11: Local Standards of Provision – Outdoor Recreation
- BSC12: Indoor Sport, Recreation and Community Facilities
- ESD1: Mitigating and Adapting to Climate Change
- ESD2: Energy Hierarchy and Allowable Solutions
- ESD3: Sustainable Construction
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems (SuDs)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment
- Villages 1: Village Categorisation
- Villages 2: Distributing Growth Across the Rural Areas

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

- H18: New dwellings in the countryside
- C5: Protection of ecological value and rural character of specified features of value in the district
- C8: Sporadic development in the open countryside
- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- C33: Protection of important gaps of undeveloped land
- ENV1: Environmental pollution
- ENV12: Potentially contaminated land
- TR1: Transportation funding

### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Sibford Community Plan
- 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
- Design, and impact on the character of the area
- Heritage impact
- Residential amenity
- Drainage
- Ecology impact
- Sustainable construction

### Principle of Development

#### *National Planning Policy Framework (NPPF)*

9.2. 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.

9.3. Paragraph 10 of the NPPF states that *so sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development*. Paragraph 11 defines the presumption in favour of sustainable development as *approving development proposals that accord with up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: the application of policies in this Framework*

*that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, 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.*

- 9.4. Paragraph 12 also advises, amongst other things that 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. The NPPF also states that a Local Planning Authority 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.*
- 9.5. Section 5 of the NPPF covers the issue of delivering a sufficient supply of homes, and paragraph 60 states that *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.*
- 9.6. Paragraph 73 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. The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period). Paragraph 74 continues by stating that *a five-year supply of deliverable housing sites, with the appropriate buffer, can be demonstrated where it has been established in a recently adopted plan, or in a subsequent annual position statement which:*
- a) has been produced through engagement with developers and others who have an impact on delivery, and been considered by the Secretary of State; and*
  - b) incorporates the recommendation of the Secretary of State, where the position on specific sites could not be agreed during the engagement process.*

#### *Development Plan*

- 9.7. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for this area comprises the adopted Cherwell Local Plan 2011-2031 ('CLP 2015') and the saved policies of the Cherwell Local Plan 1996.
- 9.8. Policy PSD 1 of the CLP 2015 states that *when considering development proposals, the Council will take a proactive approach to reflect the presumption in favour of sustainable development contained in the National Planning Policy Framework. The policy continues by stating that planning applications that accord with the policies in this Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise. Paragraph B88 of the CLP 2015 also highlights that by focusing development in and around the towns of Bicester and Banbury we aim to ensure that the housing growth which the District needs only takes place in the locations that are most sustainable and most capable of absorbing this new growth.*
- 9.9. Policy BSC1 of the CLP 2015 sets out the district wide housing distribution for the plan period 2011 to 2031 to enable the District to meet its housing needs in that time.

The housing strategy of the Local Plan is to focus development at the towns of Banbury and Bicester and a small number of strategic sites outside of these towns, in particular RAF Heyford.

- 9.10. Policy BSC4 of the CLP 2015, which covers the issue of providing housing mix on new development, states that *new residential development will be expected to provide a mix of homes to meet current and expected future requirements in the interests of meeting housing need and creating socially mixed and inclusive communities*. The policy continues by stating that *opportunities for the provision of extra care, specialist housing for older and/or disabled people and those with mental health needs and other supported housing for those with specific living needs will be encouraged in suitable locations close to services and facilities*. Although it is accepted that the applicant is not providing sheltered housing, the accommodation is aimed at those who are aged 55 and above. The advice in the National Planning Practice Guidance ('NPPG') states that the definition of age-restricted general market housing is, *housing generally for people aged 55 and over and the active elderly. It may include some shared amenities such as communal gardens but does not include support or care services*.
- 9.11. Saved Policy H18 covers the issue over new dwellings in the countryside. Under this policy it is stated that *planning permission will only be granted for the construction of new dwellings beyond the built-up limits of settlements other than those identified under policy H1 when:*
- (i) it is essential for agriculture or other existing undertakings, or*
  - (ii) the proposal meets the criteria set out in policy H6; and*
  - (iii) the proposal would not conflict with other policies in this plan.*

Under the current CLP 2015 Saved Policy H1 was replaced by Policy BSC1 while Saved Policy H6 was replaced with Policy Village 3 (Rural Exception Site).

- 9.12. The CLP 2015 seeks to allocate sufficient land to meet District Wide Housing needs. The overall housing strategy is to focus strategic housing growth at the towns of Banbury and Bicester and a small number of strategic sites outside of these towns. With regards to villages, the Local Plan notes that the intention is to protect and enhance the services, facilities, landscapes and natural and historic built environments of the villages and rural areas. It does however advise that there is a need within the rural areas to meet local and Cherwell-wide needs.
- 9.13. Cherwell's position on housing land supply is reported in the Council's 2021 Annual Monitoring Report (AMR). The 2021 AMR concludes that the District can demonstrate a 3.5 years supply for the current five year period 2022-2027 a shortfall equal to 2,255 houses for the period 2022-2027.
- 9.14. In terms of Category A villages, the AMR shows that 749 dwellings are either completed or under construction on sites with planning permission for 10+ dwellings at Category A villages. During 2020/21 there were 88 dwellings completed at Category A villages that contribute to the Policy Villages 2 requirement of 750 dwellings. There are also 246 dwellings that are under construction from the supply of permitted sites and are likely to be delivered in the short term. Between 1 April 2014 and 31 March 2021 there were a total of 503 net housing completions on the Policy Villages 2 sites, which is an average of 71 homes per year. The AMR also states: *Since 1 April 2014 a total of 1,062 dwellings have been identified for meeting the Policy Villages 2 requirement of 750 dwellings. These are included in the Housing Delivery Monitor in Appendix 2. Policy Villages 2 requirement has already been exceeded by 312 dwellings when considering the planning permissions and identified sites without planning permission in the above (749+287+26)*. Although the current

application is only for a small development of 6 bungalows, the proposal would make a contribution towards the provision of dwellings within the District.

- 9.15. For development of less than 10 units, Policy BSC1 sets a “windfall” of 754 houses in the rest of the district outside Bicester and Banbury. The 2021 AMR shows that at between 2011 - 2020 the level of Windfall Allowance (for <10 dwellings) stands at 760 completions with a further 217 for Planning Permissions at 31/3/21 and completions of 770. It is therefore clear that the provision of ‘windfall’ sites in the rural areas is healthy. However, as agreed by Inspectors in appeals the 754 figure should not be seen as a ceiling figure. In considering any application in this type of location the decision maker needs to assess the harm of the development and whether the harm is outweighed by the benefits of the proposal.
- 9.16. Section E of the CLP 2015 concerns the monitoring and delivery of the Local Plan. Paragraph E.19 states that *if the supply of deliverable housing land drops to five years or below and where the Council is unable to rectify this within the next monitoring year there may be a need for the early release of sites identified within this strategy or the release of additional land. This will be informed by annual reviews of the Strategic Housing Land Availability.* In this instance the most recent published review undertaken by the Council is the Housing & Economic Land Availability Assessment (HELAA) (February 2018). This application site was reviewed in the HELAA under site reference HELAA267 which confirmed that this site had few physical constraints and limited potential impacts and was considered suitable for a residential development of up to 20 dwellings.
- 9.17. Policy Villages 1 of the CLP 2015 provides a framework for housing growth in the rural areas of the district and groups villages into three separate categories (A, B and C), with Category A villages being considered the most sustainable settlements in the District’s rural areas. These villages have physical characteristics and a range of services within them to enable them to accommodate some limited extra housing growth. Sibford Ferris is a Category A village.

#### *Assessment*

- 9.18. This application, a re-submission of 21/04271/F, seeks planning permission for the development of 6 age restricted bungalows. The site is undeveloped, agricultural land that, given its physical and visual relationship to the existing built form, is outside of the existing built form of Sibford Ferris village but with existing residential properties to the north, east and approved residential development to the south. The site is bounded on the fourth side by Woodway Road then open countryside. The site is not allocated for development in any adopted or emerging policy document forming part of the Development Plan.
- 9.19. The application was originally reported to the Planning committee on 7 April 2022 with an officer recommendation to approve the application subject to conditions. Following consideration of the case and having taken into account comments raised the planning committee voted against the officer’s recommendation and concluded that the proposal was not acceptable. The Planning Committee refused the application for the reason’s outlined in paragraph 3.3 above.
- 9.20. Notwithstanding the fact that this current application is the same scheme as previously considered by the Planning committee and recommended as acceptable by officers the Planning Committee’s decision to refuse the application is a material consideration. The applicant has advised that the reason for the re-submission is to allow members of the committee an opportunity to re-consider the application.
- 9.21. While Sibford Ferris is designated as a Category A village under Policy Villages 1 of the CLP 2015, the village contains a very limited range of services such that most

residents would need to travel outside the village to obtain for the majority of amenities and services. It is also important to note that Sibford Ferris is only allocated as a Category A village on the basis that it is linked with nearby villages Sibford Gower and Burdrop as a 'cluster'. Sibford Ferris village on its own is somewhat small and remote with very limited services and amenities. The village is currently being extended by the development to the south of the application site with a new estate of 25 dwellings. This adjoining development would represent an increase in the village size by 15% while the current proposal the subject of this appeal would result in an overall increase in village size by 18%. This increase in the size of the village is not a matter addressed as part of the village categorisation nor a material consideration in the consideration of new development at Category A villages. However, as outlined in the paragraphs above the site is located outside of the built area of the village and in an area of open countryside.

- 9.22. Given the location of the application site outside the built form of Sibford Ferris, the proposed development would not find support from Policy Villages 1, neither does the proposal comply with Policy Villages 2 in that the development seeking permission for 6 dwellings is less than the 10 dwellings outlined in the policy. Saved Policy H18 of the Cherwell Local Plan 1996 ("CLP 1996") covers the issue of new dwellings in the open countryside. This Policy highlights amongst other things that, *planning permission will only be granted for the construction of new dwellings beyond the built-up limits of settlements when (i) it is essential for agriculture or other existing undertakings, or (ii) the proposal meets the criteria set out in policy H6; and (iii) the proposal would not conflict with other policies in this plan.*
- 9.23. In considering the requirements of Policy H18 the proposal is clearly not development essential for agriculture while former saved Policy H6 was replaced by Policy Villages 3 in the CLP 2015. Policy Villages 3 covers the issue of rural exception sites for small scale affordable housing schemes, which for this appeal is not relevant. For these reasons the proposal development clearly conflicts with Saved Policy H18.
- 9.24. The fact that the development conflicts with this Policy is not in itself a reason to refuse the application, although it is accepted that this weighs against the development proposal. As outlined above given that the Council's housing land supply position paragraph 11d of the NPPF is a material consideration and under this paragraph policies in the development plan relating to housing provision are to be considered out of date. This includes Policy BSC1, Policy Villages 1 of the CLP 2015, and saved Policy H18 of CLP 1996, and the weight to be afforded these policies is therefore reduced. The decision maker therefore needs to apply the presumption in favour of sustainable development.
- 9.25. Where policies are out-of-date, there is a presumption within the NPPF of granting permission for sustainable forms of development 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; or*
  - (ii) 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.*
- 9.26. For this reason, the consideration of this proposal is not simply an assessment of supplying residential development against Policy figures. The decision maker is required to assess the impact of this development on the area and weigh up whether the benefits outweigh the harms.

9.27. As highlighted in the paragraphs above, although Sibford Ferris together with Sibford Gower and Burdrop as a 'cluster' are a Category A village, Sibford Ferris village on its own is somewhat small and remote with very limited services and amenities. Furthermore, the location of the development on the far western edge of the village is one of the furthest points to the local amenities. Although only 6 bungalows the development would further expand the village placing greater pressure on the limited amenities and infrastructure where greater reliance would be placed on the private car to carry out day-to-day functions. The development for the client group would therefore not represent the most sustainable location and therefore the benefits of the restrictive living accommodation could be questioned and a case against the proposal could be found.

#### Design, and impact on the character of the area

9.28. Policy ESD15 of the CLP 2015 provides guidance as to the assessment of development and its impact upon the character of the built and historic environment. It seeks to secure development that would complement and enhance the character of its context through sensitive siting, layout and ensuring a high-quality design.

9.29. Saved Policies C28 and C30 of the CLP 1996 exercise control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context. New housing development should be compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.

9.30. Government guidance contained within the NPPF requiring good design states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Further, permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.

9.31. Paragraph 130 of the NPPF states that planning decisions should ensure that developments:

- *will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- *are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- *are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change*

9.32. This application seeks planning permission for the development of an agricultural field for 6no, age restricted bungalows. The site is undeveloped land outside of the existing built form of Sibford Ferris village but with existing residential properties to the north, east and approved residential development to the south construction works for which have recently commenced. All three boundaries are marked by a mix of landscape features and the proposal would seek to retain and hence the landscape along these boundaries.

9.33. The site is currently an area of agricultural land with no built form and as such the proposal to build 6 bungalows would result in a significant change in the character of this part of the village. That said the proposed development is for single storey dwellings, and the existing landscaping along the edge of the site which forms the edge boundary to the village would be retained and would form an effective screen to the development helping to soften the appearance of the development and its impact

from outside the site. The existing landscaping would be a more effective screen for the current proposal than if the proposal had been for two-storey dwellings, which would be visible from footpaths to the north and west.

- 9.34. Turning to the design of the bungalows themselves, the dwellings would be purely single storey with no accommodation provided within the roof space. Although the majority of dwellings within the village are of a two-storey design there are numerous examples of bungalows within the village and therefore the development of bungalows on the site would not be out of character for the village. Indeed, it would be an appropriate design solution for this visually sensitive edge of village location, whereas for reasons set out above two-storey dwellings may not be acceptable in visual terms.
- 9.35. In terms of layout the proposal is for a single access road feeding off the access road to serve the new residential development to the south of the site. Once within the site the access road would split into two private driveways one serving the north of the site and a second separate driveway to the south. The 6 bungalows would all front onto one of the private driveways in an arc form with the rear elevations all facing towards a central communal rear garden space.
- 9.36. Although the main area to the rear of the bungalows would be the communal landscape garden each bungalow would also maintain a small private rear garden area with privacy fencing between the plots.
- 9.37. Concern was expressed by objectors and members of the Planning Committee regarding the design, appearance and layout of the proposed development. As such the issue of design and appearance formed the second reason to refuse the previous application. Any new development would have a significant impact on this part of the village but whether harm would be caused is a matter of judgement. In considering the previous application officers considered that the design and appearance was acceptable; however, a different approach could also be considered and a case against the development formed.
- 9.38. Chapter 6 of the Cherwell Residential Design Guide highlights the issue over building and plot arrangements for new residential development. Under this section *to avoid the appearance of 'cramming', detached properties should only be sited on larger plots which have sufficient generosity to balance internal and external space requirements effectively and accommodate car parking without garages and driveways dominating the street frontage.* As a direct result of the design of the development the footprint for each bungalow is of a larger size than that of the surrounding existing dwellings. For this reason, the layout of the development appears tight with limited space between the buildings and as such the development appears cramped within the Site. The fact that all bungalows face into the small central communal space also emphasises the cramped nature of the development where no clearly defined curtilage and / or private garden space can be provided. Due to the size of the footprint in relation to the site area plots 3 and 4 are poorly positioned to the neighbouring plots where rear elevations face onto the side elevations of the neighbouring dwelling all of which emphasise the cramped nature of the development.
- 9.39. The proposal would appear as an extension of the village boundary beyond the built limits of the village both existing and approved to the south, projecting the built form into the open countryside. Furthermore, it is clear that the development would project beyond the line of the new development to the south of the site. As such although only single storey in height the development would give the impression of extending the built form of the village into the open countryside.

- 9.40. For the above reasons the development has the potential to appear out of place with the surrounding existing dwellings including the layout of the new estate to the immediate south of the site. It is accepted that the larger development to the south would also extend the western edge of the village and that this approved development is for two-storey dwellings whereas the current appeal proposal is for single storey dwellings. However, this current proposal for 6 bungalows would project beyond the line of the approved development to the south and therefore although only single storey in height the current appeal proposal has the potential to have a greater visual impact by extending the western edge of the village and thereby having a greater impact on the rural character of the area, especially in views from the west and north-west in which it would be seen in the foreground of (and therefore more prominent than) the development of 25 dwellings to the south.
- 9.41. Concern has also been raised by some objectors that the development of this site would impact upon the character of the village and in particular reference to the impact on the Conservation Area has been raised. Although the development is located close to the Conservation Area officers note that the site is not located within nor abuts the edge of the Conservation Area. The site is closest to the Conservation Area to the north of the site, but the existing dwelling of Faraday House is located between the site and the Conservation Area. 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.*
- 9.42. In this instance it is considered that as the development is not located within nor abutting the Conservation Area the proposal would not result in any adverse impact upon the character of the Sibford Conservation Area.
- 9.43. As outlined above the issue of design and appearance is a judgement call but it could reasonably be concluded that the loss of this piece of agricultural land for the provision of bungalows has the potential to result in an urbanisation of the rural buffer to Sibford Ferris village to the detriment of this rural area. It is accepted that this urbanisation of the site would result in a significant change in its character and given the proposal's design would be unlikely to contribute to the enhancing of the environment. In taking this approach it could be taken that for these reasons, the development as proposed would conflict with saved Policy C28 of the CLP 1996 as well as Policy ESD15 of the CLP 2015 and advice contained within the Cherwell Residential Design Guide

#### Highway Implications

- 9.44. Paragraph 110 of the NPPF states that in assessing specific applications for development, it should be ensured that:
- a) *appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
  - b) *safe and suitable access to the site can be achieved for all users; and*
  - c) *any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

In addition to this paragraph 111 highlights that *development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*

- 9.45. In considering the previous application members of the Planning Committee did not seek to refuse the application in terms of highway safety. As such and based upon the fact that the design / highway access has not changed since the previous application it is considered that the consideration of the proposal is no different to the previous proposal / report.
- 9.46. This application seeks to provide a link to Hook Norton Road via the new access road provided through the approved new estate to the immediate south of the site. Once within the site the access road would divide in two to provide two separate private drives one serving the north and the second serving the south of the site. Initial concerns raised by the local highway authority on the acceptability of the access arrangements have been addressed by the applicant in the form of an amended plan. This amended plan now shows that both the north and the south of the site can be accessed by a fire tender and that a refuse vehicle can access the southern section of the site where the bin storage area will be located. The revised plan shows a tracking for a refuse vehicle accessing the site to the south and sufficient space to allow the refuse vehicle to turn within the site and leave within forward gear.
- 9.47. Concern had been raised by a number of objectors that the revised layout has resulted in harm to the amenities of adjoining residents. These concerns include position of bin store close to boundary and access road leading to light pollution and noise.
- 9.48. The applicant has confirmed that the scheme would be managed by Blue Cedar Homes and refuse will be transferred to the bin store near the turning head in the south on the eastern side of the carriageway adjacent to Plot 4 on bin collection day. This is similar to arrangements at other Blue Cedar Homes schemes in Oxfordshire that are recently approved and occupied, and at other sites throughout the Country. With regards to light pollution and noise, although it is accepted that the development would lead to an increase in light and potential on some neighbouring dwellings the level of harm is not considered to a point which would warrant a refusal in this instance.
- 9.49. As with the previous application officers consider that the current proposal would not result in any highway safety issues and that there is no highway reason to warrant a refusal of permission.

#### Residential Amenity

- 9.50. As with the highway aspect of the proposal in considering the previous application the impact on existing / new residential amenity did not form one of the reasons to refuse the application. As such and based upon the fact that there have been no alterations on the proposal from the previous application it is considered that the consideration on this aspect of the scheme is the same as for the previous application / report.
- 9.51. Saved Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. These provisions are echoed in Policy ESD15 of the CLP 2015 which states that, *new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space.*
- 9.52. This application seeks planning permission for the development of the site with 6 detached bungalows. The site shares a common boundary with existing residential properties to the north and the east the boundaries of which are marked by a mix of open style fences and existing landscaping. As the layout of the development is for the bungalows to face towards the shared boundaries there is the potential that the development would result in a loss of privacy to the existing residential properties.

However, the distance between the front of the nearest bungalow and the shared boundary is in the region of 14m with a further 20m before the rear elevation of the existing property. This distance together with the fact that the proposal is for a bungalow would ensure that an adequate distance would be maintained to ensure that the development would not result in any significant loss of privacy or outlook or light pollution.

- 9.53. Given the above, it is considered that as per the previous application that the development is acceptable in terms of residential amenity, for both existing residents neighbouring the site and future occupiers. The development therefore complies with the adopted Policies.

#### Drainage

- 9.54. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 163 of which states that *when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*
- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
  - b) the development is appropriately flood resistant and resilient;*
  - c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
  - d) any residual risk can be safely managed; and*
  - e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.*
- 9.55. Paragraph 165 of the NPPF continues by stating that *major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:*
- a) take account of advice from the lead local flood authority;*
  - b) have appropriate proposed minimum operational standards;*
  - c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and*
  - d) where possible, provide multifunctional benefits.*
- 9.56. Policy ESD6 of the CLP 2015 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding.
- 9.57. Policy ESD7 of the CLP 2015 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District.
- 9.58. The current is situated wholly within Flood Zone 1, which is land that has a less than 1 in 1,000 annual probability of river flooding. The applicant has submitted a Foul and Surface Water Drainage Strategy in support of the application. This strategy outlines that in accordance with the Sustainable Drainage Systems (SUDS) hierarchy, rainfall run-off should be managed in the following preferential order:

1. Infiltrated to ground.
  2. Discharged to local watercourse.
  3. Discharged to a local surface water sewer network.
  4. Discharged to a local combined water sewer network
- 9.59. The Strategy continues by stating that given the advice contained within the geotechnical report, runoff from the individual plots would be collected via a positive piped system and conveyed to a communal soakaway feature in the proposed open space area to the west. This would ensure that concentrated volumes of water would be at an appropriate distance from buildings. Areas of hardstanding would be formed using a permeable surface and would cater only for rainfall falling directly upon that area, no additional inflows would be included. In this way the surface would mimic the existing rainfall action.
- 9.60. The access road and driveway areas would be split into self-contained 'cells' in order to ensure that runoff does not migrate across the site, keeping individual catchment areas relatively small. Where areas of significant hardstanding's are immediately adjacent to a building, the area of permeable paving would be set away from the edge of the structure. The paved areas would be underlain by a sub-base layer which also provide storage volume for the rainfall runoff. All soakaway structures would be designed to accommodate up to and including the 1 in 100-year storm event plus an allowance of 40% for climate change in accordance with the upper end of the UKCP18 allowance.
- 9.61. Several objections have been raised by local residents concerned over the impact the additional drainage would have on the existing system. An initial holding objection was received from Severn Trent Water; however, following negotiations between the applicant and Seven Trent Water a revised drainage strategy was agreed and submitted in support of the current application. Confirmation has been received from Severn Trent Water that the holding objection is removed and, based upon the revised drainage details, no objection to the proposal is raised.
- 9.62. It is noted that the Parish Council has raised a question over the removal of the holding objection and the Parish Council has requested that the holding objection be reinstated on the basis that the issue over drainage has not resolved in terms of how the sewage from the Blue Cedar development would be handled. In considering this point the drainage of the site for the 6 bungalows would feed into the drainage serving the adjoining site for 15 dwellings the condition covering drainage for this larger site has been formally agreed and discharged. It is accepted by the applicant that, in the event that further works are required to allow for the additional drainage, this would be works they would be required to carry out and this is noted and acknowledged by Severn Trent Water in their lifting the holding objection to the proposal.
- 9.63. As drainage did not form one of the reasons to refuse the previous application and notwithstanding the objections being raised by the Parish Council, with no objections being received from the Statutory consultees it is considered that the proposal is acceptable in drainage terms and any refusal on this basis would not be sustainable at appeal.

### Ecology Impact

#### *Legislative context*

- 9.64. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on

the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.

- 9.65. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.
- 9.66. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:
- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
  - (2) That there is no satisfactory alternative.
  - (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.
- 9.67. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipe-lines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

#### *Policy Context*

- 9.68. Paragraph 170 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 9.69. Paragraph 175 states, amongst other things, that *when determining planning applications, local planning authorities should apply the following principles:*
- a) *if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
  - d) *development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity*

*improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.*

- 9.70. Policy ESD10 of the 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.
- 9.71. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.72. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities (LPAs) should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

#### *Assessment*

- 9.73. The application is supported by a detailed ecology assessment of the application site. The report highlights that an ecological survey and appraisal of the site and proposed development was undertaken on the 23rd September 2021. The survey was also supported with a desk-based review of maps, satellite imagery, and information supplied by the Thames Valley Environmental Records Centre.
- 9.74. The report outlines that the proposed development site is not covered by any statutory or non-statutory nature conservation designations, and there are no potentially affected designated sites in the local landscape. It is highlighted that the boundary hedgerow used by common bats and two oak trees, which have low potential to support roosting bats, will be protected. The report considers that habitat affected by the development is of negligible value for foraging bats. It is possible that common mammals move through the study area. But that the site is not suitable for supporting ground nesting birds, and the vast majority of boundary hedgerow that could support low numbers of nesting common birds will be retained and protected. The site is not considered to support reptiles or great crested newt.
- 9.75. The submitted ecology assessment considers that mitigation measures to include protection of bats, mammals and nesting birds would be included as part of the development. The mitigation includes the design can include new mixed native hedgerow, trees and species-rich grassland, while five bat roosting boxes and twelve swift nesting boxes would be installed on new buildings. The proposed development complies with both national and local planning policies to maintain and enhance biodiversity, in particular those habitats and species identified as priorities in the UK and Oxfordshire, and the scheme provides a net biodiversity gain. The residual ecological effect of the proposed development is considered to be positive in a Local context.

#### *Conclusion*

- 9.76. Officers are satisfied, on the basis of the absence of any objection from Natural England or the Council's Ecology Officer, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land would continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and Page

221 habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

### Sustainable Construction

- 9.77. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 150 states that new development should be planned for in ways that: *a) avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure; and b) can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards.* Paragraph 151 continues by stating, amongst other things, that *in order to help increase the use and supply of renewable and low carbon energy and heat, plans should: c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.*
- 9.78. Policy ESD1 of the CLP 2015 covers the issue of Mitigating and Adapting to Climate Change and includes criteria under which application for new development will be considered. Included in the criteria is the requirement that development will incorporate suitable adaptation measures to ensure that development is more resilient to climate change impacts. These requirements will include the consideration of, *taking into account the known physical and environmental constraints when identifying locations for development. Demonstration of design approaches that are resilient to climate change impacts including the use of passive solar design for heating and cooling. Minimising the risk of flooding and making use of sustainable drainage methods and reducing the effects of development on the microclimate (through the provision of green infrastructure including open space and water, planting, and green roofs).*
- 9.79. Policy ESD 2 relates to Energy Hierarchy and Allowable Solutions. This policy seeks to achieve carbon emissions reductions, where the Council will promote an 'energy hierarchy' as follows: *Reducing energy use, in particular by the use of sustainable design and construction measures. Supplying energy efficiently and giving priority to decentralised energy supply. Making use of renewable energy Making use of allowable solutions.* Any new development will be expected to take these points into account and address the energy needs of the development.
- 9.80. Policy ESD 3 covers the issue of Sustainable Construction and states amongst other things that *all new residential development will be expected to incorporate sustainable design and construction technology to achieve zero carbon development through a combination of fabric energy efficiency, carbon compliance and allowable solutions in line with Government policy.* The Policy continues by stating that *Cherwell District is in an area of water stress and as such the Council will seek a higher level of water efficiency than required in the Building Regulations, with developments achieving a limit of 110 litres/person/day.* The Policy continues by stating that *all development proposals will be encouraged to reflect high quality design and high environmental standards, demonstrating sustainable construction methods including but not limited to: Minimising both energy demands and energy loss. Maximising passive solar lighting and natural ventilation. Maximising resource efficiency Incorporating the use of recycled and energy efficient materials. Incorporating the use of locally sourced building materials. Reducing waste and pollution and making adequate provision for the recycling of waste. Making use of sustainable drainage methods. Reducing the impact on the external environment and maximising opportunities for cooling and*

*shading (by the provision of open space and water, planting, and green roofs, for example); and making use of the embodied energy within buildings wherever possible and re-using materials where proposals involve demolition or redevelopment.*

- 9.81. This application seeks planning permission for the development of this site for 6 detached bungalows. The applicant has provided a sustainability statement which confirms that the proposed development will incorporate many sustainability initiatives which seek to not only comply with the 3 sustainability objectives in the NPPF as well as CLP Policy ESD3. The key features include: the use of air source heat pumps which will be used due to the lack of mains gas in the area. All dwellings are designed to reduce air leakage which assist with the use of the air heat pumps. All dwellings will be provided with electric car charging and additional bicycle storage will be provided for each dwelling. All the dwellings are design to M4(2) provision for future adaptability. PV cells would be provided to the roofs of the dwellings. The scheme would include a SuDS drainage to mimic natural drainage. The development includes the provision of a communal landscaped gardens which together with the landscape buffer along the western edge of the site would encourage biodiversity. Finally, it is confirmed that the dwellings would be installation with appliances, fixtures and fittings to reduce the use of water to 110litres/person/day as required by Policy ESD3.
- 9.82. Based on the above measures it is considered that the development would be completed to assist in the reduction of impact on the environment as required under Policy ESD3.

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

- 10.1. This application is a re-submission following a recent refusal of permission by the Planning Committee contrary to an officer recommendation. There is currently an outstanding appeal against this decision with the Planning Inspectorate. This current application has been submitted to allow members to re-consider the refusal.
- 10.2. In reaching an informed decision on planning applications there is a need for the Local Planning Authority to undertake a balancing exercise to examine whether the adverse impacts of a development would be outweighed by the benefits such that, notwithstanding the harm, it could be considered sustainable development within the meaning given in the NPPF.
- 10.3. In carrying out the balancing exercise it is, therefore, necessary to take into account policies in the development plan as well as those in the NPPF. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise. The NPPF supports this position and adds that proposals that accord with an up-to-date development plan should be approved and those which do not should normally be refused unless outweighed by other material considerations.
- 10.4. Sibford Ferris is a Category A village under the 2015 Local Plan. However, it has limited services, public transport links and employment opportunities. Future residents of the development would have no choice but to use their own private cars to serve their needs. That said, a Planning Inspector considered the village sufficiently sustainable to accommodate 25 dwellings on the site immediately to the south of the application site.
- 10.5. Under Policy BSC1 developments of less than 10 dwellings are considered as 'windfall' developments and the CLP allocates 754 dwellings under this category as an aspiration. The 2021 AMR shows that at between 2011 - 2020 the level of Windfall Allowance (for <10 dwellings) stands at 760 completions with a further 217 for

Planning Permissions at 31/3/21 and completions of 770. It is therefore clear that the provision of 'windfall' sites in the rural areas is healthy; however, as agreed by Inspectors in appeals the 754 figure is not a target nor a ceiling figure which would warrant a refusal. In considering any application in this type of location the decision maker needs to assess the harm of the development and whether the harm is outweighed by the benefits of the proposal.

- 10.6. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously. Section 38 of the Act continues to require decisions to be made in accordance with the development plan and the NPPF highlights the importance of the plan led system as a whole.
- 10.7. The site is located on the edge of the small rural village of Sibford Ferris in the north-western edge of Cherwell District. Sibford Ferris along with Sibford Gower and Burdrop are allocated as a Category A village as a 'cluster', while Sibford Ferris on its own is a relatively small village of around 172 dwellings.
- 10.8. Positioned on the western edge of the village the Site is currently a small agricultural field enclosed on two sides with existing residential development and on a third with an area currently being developed for a new estate of 25 dwellings. The fourth boundary to the site is marked by the single-track lane known as Woodway Road and open countryside.
- 10.9. This proposal would provide 6 detached bungalows outside the built form of Sibford Ferris. It is accepted that the Council cannot provide a 5-year housing land supply and as such paragraph 11d of the NPPF is implemented. Sibford Ferris has already provide an extension to the village with the provision of 25 dwellings to the south of the Site.
- 10.10. It is not, however, just a simple matter of increasing the level of housing in the open countryside. The decision maker has to consider if the provision of the development outweighs the harm to the area and the loss of this element of open countryside. The Council are of the view that the development would result in harm to the rural character of this open countryside location. The development would result in the further urbanisation of this side of Sibford Ferris and would project the built form further into an area of open countryside to the detriment of the rural character of this village.
- 10.11. It is accepted that there is a need for additional housing and that this includes age restricted housing in the District. However, as outlined in the paragraphs above there is an argument that this site is not appropriate for this type of development. The proposal could be considered as contrary to Policies BSC1 and ESD15 of the CLP 2015 and saved Policies C28 and H18 of the CLP 1996 and advice in the Cherwell Residential Design Guide. However, due to the fact that the Policies are out of date under paragraph 11d of the NPPF the decision maker has to weigh up the benefits of the development against the harm.
- 10.12. Contrary to the officer's recommendation in order to protect the Council's case at the appeal it is considered that this application should be refused for the reasons outlined.

## **11. RECOMMENDATION**

### **RECOMMENDATION - REFUSAL FOR THE REASONS SET OUT BELOW**

#### REASONS FOR REFUSAL

1. By reason of its siting outside of the built limits of the settlement and having regard to the number of dwellings delivered in the rural areas, the proposal represents development in an unsustainable location, remote from key amenities, especially for elderly residents. Notwithstanding the Council's present lack of a five-year housing land supply the proposal conflicts with Policy BSC1 of the Cherwell Local Plan 2011-2031 and saved Policy H18 of the Cherwell Local Plan 1996 and Government guidance in the National Planning Policy Framework. This identified harm significantly and demonstrably outweighs the proposal's benefits of providing additional housing.
2. By reason of its scale, layout and design, the proposal would be out of keeping with the form and pattern of development in the local area, resulting in significant and demonstrable harm to the character and appearance of the area. The proposal therefore conflicts with 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.