

Case Officer: Imogen Hopkin

Applicant: Trinity College

Proposal: Demolition of 3no existing barns followed by the erection of 9no new dwellings; conversion and alterations to existing barn to form 1no dwelling; formation of new primary access from Newington Road, parking, landscaping and other associated works

Ward: Cropredy, Sibfords And Wroxton

Councillors: Cllr P. Chapman, Cllr G. Reynolds and Cllr D. Webb

Reason for Referral: Development of 10+ dwellings

Expiry Date: 20 April 2023

Committee Date: 13 April 2023

RECOMMENDATION: REFUSAL

1. APPLICATION SITE AND LOCALITY

1.1. The application site is approximately 0.56 hectares, although comprises a larger agricultural site covering 485 hectares. The application site is currently occupied by a number of agricultural buildings in Dark Lane, Wroxton, including 3 modern agricultural buildings and an iron stone barn with a smaller stone built barn, sited around a concrete yard. The site is bound to the north by two pairs of semi-detached dwellings, along with the farmhouse associated with the site to the west. To the north-west of the site is Wroxton C of E Primary School and associated field. The south of the site is bound by Wroxton Abbey, a Grade II* Listed Registered Park and Garden. There is an existing access track westwards from the site towards Newington Road, and the western side of Newington Road is bound by open agricultural fields.

2. CONSTRAINTS

2.1. The application site is within Wroxton Conservation Area, and the western boundary of the site is bound by a defined Public Right of Way. The Castle Bank Enclosure, a Scheduled Ancient Monument, is sited around 638m from the south-west of the site.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

3.1. The application seeks approval for the demolition of the 3 modern agriculture units, followed by the erection of 9 dwellings, and the conversion of the existing barn to form 1 dwelling. The application seeks to form a new primary access from Newington Road, and includes details of parking and landscaping.

3.2. The proposal would include 6 detached dwellings (including the conversion) and 4 semi-detached dwellings. This proposes a density of approximately 17 dwellings per hectare. The mix of dwellings would be 4 x 2 bedrooms, 2 x 3 bedrooms, 2 x 4 bedrooms, 2 x 5 bedrooms. Each dwelling would have a private amenity space, predominantly to the rear, although plot 4 has a partial side garden and plot 1 has a front garden. Each property is proposed to have 2 parking spaces, and there are 4 visitor parking spaces shown in front of plots 6 and 7. The proposal includes a 1.2m

high post and rail fence from the access off Dark Lane to provide a pedestrian only access from Dark Lane. Access to the dwellings is through the formation of the new access from Newington Road.

4. RELEVANT PLANNING HISTORY

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

- **Application: 19/01293/F** - The demolition of existing modern farm buildings, the erection of 9 new dwellings and the refurbishment and conversion of one traditional farm building to form 1 new dwelling together with construction of an improved access - APPLICATION WITHDRAWN - 26 September 2019
- **Application: 19/02546/F** - The demolition of existing modern farm buildings, the erection of 9 new dwellings and the refurbishment and conversion of one traditional farm building to form 1 new dwelling and the formation of a new access, hardstanding and associated works - APPLICATION WITHDRAWN - 4 February 2020

5. PRE-APPLICATION DISCUSSIONS

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

- **Application: 19/00059/PREAPP** - Demolition of existing modern farm buildings and the erection of 3 detached dwellings, 2 semi-detached dwellings, 3 terraced dwellings and the conversion of traditional farm building to form 1 dwelling - Detailed Pre-App response sent - 2 April 2019
- **Application: 21/01799/PREAPP** - (1) Laurels Farm - Demolition of the existing Dutch barn buildings on the site, the erection of 9 new dwellings and the conversion of an existing traditional stone building to a dwelling and (2) Land at Stratford Road - relocated farmyard - Response Sent 17 August 2021

5.2. The earlier pre-application enquiry, 19/00059/PREAPP, sought a view on 9 dwellings (including conversion) and the response was negative in principle, due to the siting outside of the built up limits of the village, with no essential need demonstrated.

5.3. The latter pre-application enquiry, 21/01799/PREAPP, sought a view on 10 dwellings (including conversion) and proposed a similar site plan as submitted under this application. A pragmatic approach was taken to the principle within this pre-application enquiry, although the author noted that evidence would be required to demonstrate the proposal complies with Policy Villages 2. Further, there was recommendations that the scheme should be reduced in size.

6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **10 March 2023**, although comments received after this date and before finalising this report have also been taken into account.

6.2. 6 letters of objection were received from 5 properties. The comments raised by third parties are summarised as follows:

- Principle - This scale of development is unacceptable in principle. Not in accordance with Cherwell Local Plan 2011 – 2031 policies
- Visual impact - Volume and density is not proportionate to surrounding area. Detrimental impact to the views from the adjacent historic parkland. New road from Newington Road would exceed the existing built area of the village
- Access/highway safety - Concerns for width of Dark Lane and Lampitts Green during construction. Gate proposed may result in inappropriate parking in front of by residents of site. Risk of increased traffic and vehicle accidents. Potential access road to school proposed as part of the upgraded road to Newington Road not considered appropriate by residents
- Current use for the site is a working farm, so removing this would disregard the farm use which has been in place for centuries
- Barn conversion proposed could be acceptable with access from Lampitts Green
- The local community would suffer as a result of the development, due to traffic and the change of the character of the village
- Provision of refuse disposal would have a detrimental impact to the area

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

7. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. WROXTON AND BALSCOTE PARISH COUNCIL:

8/2/2023 – **No objection.**

16/2/2023 – **Concerns** raised and would like clarification on keyholders for the gate separating The Laurels from Dark Lane to ensure gate is not opened for anything other than emergency vehicles.

OTHER CONSULTEES

7.3. OCC HIGHWAYS: **Objection** due to more details for the proposed refuse strategy and no cycle parking provided. If approved, standard conditions required with respect to access details, public right of way impact, cycle parking, construction traffic management plan, and a Section 278 agreement would be required.

7.4. OCC ARCHAEOLOGY: **No objections** as there are no archaeological constraints.

7.5. CDC BUILDING CONTROL: **Building Regulations approval will be required.**

- 7.6. CDC ENVIRONMENTAL PROTECTION: **No objections**, subject to standard conditions with respect to noise and contaminated land.
- 7.7. CDC CONSERVATION: **No objection to principle**, however, **objects** to the application as submitted, as the scheme should be reduced in number of dwellings. There would be a detrimental impact to the character of the area through the loss of the working farmyard. Current scheme appears like a “*suburban housing development*”.
- 7.8. CDC ECOLOGY: **No objection**, subject to conditions for a Construction Environmental Management Plan (CEMP), a Landscape Ecological Management Plan(LEMP), and provision of bird bricks.
- 7.9. CDC RECREATION AND LEISURE: **Contributions required** of community hall facilities £11,442.02, outdoor sports provision £20,170.03 and indoor sports provision £8,349.47.
- 7.10. CDC WASTE & RECYCLING: **Comments** outlining acceptable bin provision. Developments over 10 dwellings require a Section 106 Agreement.
- 7.11. OCC WASTE MANAGEMENT: **No objection** subject to a Section 106 contribution of £940 towards the expansion and efficiency of the Household Waste Recycling Centre.
- 7.12. THAMES WATER: **No comments** to make at this time.
- 7.13. LEAD LOCAL FLOOD AUTHORITY (LLFA): **Objection** as no details of Sustainable Urban Drainage Systems or drainage drawing provided.
- 7.14. CDC PLANNING POLICY: No comments received to date.
- 7.15. CDC LANDSCAPE SERVICES: No comments received to date.
- 7.16. CDC STRATEGIC HOUSING: No comments received to date.
- 7.17. CAMPAIGN TO PROTECT RURAL ENGLAND OXFORDSHIRE: No comments received to date.
- 7.18. THAMES VALLEY POLICE: No comments received to date.
- 7.19. CLINICAL COMMISSIONING GROUP: No comments received to date.

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)

- PDS1 – Presumption in Favour of Sustainable Development

- SLE4 – Improved Transport and Connections
- BSC1 – District Wide Housing Distribution
- BSC2 – The Effective and Efficient Use of Land
- BSC3 – Affordable Housing
- BSC4 – Housing Mix
- BSC9 – Securing Health and Wellbeing
- 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
- ESD5 – Renewable Energy
- ESD6 – Sustainable Flood Risk Management
- ESD7 – Sustainable Drainage Systems
- 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 in the Rural Areas
- INF1 – Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18 – New dwellings in the countryside
- C28 – Layout, design and external appearance of new development
- C30 – Design of new residential development
- ENV1 – Environmental pollution
- ENV12 – Potentially contaminated land

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- Cherwell Residential Design Guide SPD (July 2018)
- Cherwell Developer Contributions SPD (February 2018)
- Annual Monitoring Report 2022 (AMR) (February 2023)
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Cherwell District Council Housing & Economic Land Availability Assessment (February 2018)

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

- Highway safety
- Ecological impact
- Drainage

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.

Development Plan

- 9.3. The Development Plan for this area comprises the adopted Cherwell Local Plan 2011 – 2031 Part 1 ('CLP 2015') and the saved policies of the Cherwell Local Plan 1996.
- 9.4. Policy PSD1 of the CLP 2015 echoes the requirements of the NPPF relating to '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'*.
- 9.5. 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, whilst limiting growth in rural areas and directing it towards more sustainable villages, also aiming to strictly control development in the open countryside.
- 9.6. The Council's latest assessment of housing land availability is its Housing and Economic Land Available Assessment (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 application site was not reviewed in the HELAA.
- 9.7. 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). Wroxton is recognised as a Category A village.
- 9.8. Policy Villages 2 of the CLP 2015 states that: *"A total of 750 homes will be delivered at Category A villages. This will be in addition to the rural allowance for small site 'windfalls' and planning permissions for 10 or more dwellings as at 31 March 2014"*. This Policy notes that sites will be identified through the preparation of the Local Plan Part 2, through the preparation of the Neighbourhood Plan where applicable, and through the determination of applications for planning permission.
- 9.9. Policy Villages 2 continues by setting out that when identifying and considering sites, particular regard will be given to the following criteria:
- *Whether the land has been previously developed land, or is of less environmental value;*
 - *Whether significant adverse impact on heritage and wildlife assets could be avoided;*
 - *Whether development would contribute in enhancing the built environment;*
 - *Whether best and most versatile agricultural land could be avoided;*
 - *Whether significant adverse landscape impacts could be avoided;*
 - *Whether satisfactory vehicular and pedestrian access/egress could be provided;*

- *Whether the site is well located to services and facilities;*
- *Whether necessary infrastructure could be provided;*
- *Whether land considered for allocation is deliverable now or whether there is a reasonable prospect that it could be developed within the plan period;*
- *Whether land the subject of an application for planning permission could be delivered within the next five years; and*
- *Whether development would have an adverse impact on flood risk.*

National Planning Policy Framework (NPPF)

- 9.10. 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.
- 9.11. 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 an up-to-date development plan without delay'*

Housing Land Supply

- 9.12. In February 2023 Cherwell District Council approved a review of their adopted planning policies carried out under regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012. This review concluded that, due to the publication of more recent evidence on Housing Needs to support the preparation of the Cherwell Local Plan Review 2040, policies including Policy BSC1 are "out of date". Paragraph 74 and footnote 39 of the NPPF requires that in such circumstances the 5 Year supply of land should be calculated using the government's standard methodology.
- 9.13. The use of the standard method has the effect of reducing the annualised requirement from 1,142 dpa to 742 dpa for the purposes of calculating the land supply and consequently Cherwell District Council is able to demonstrate a 5.4 year supply. However, whilst it is for the Local Plan Review to set the revised requirement, the delivery of homes across the district remains an important material consideration in the planning balance.

Assessment

- 9.14. Wroxton is identified in the Local Plan as one of 23 Category A villages intended to provide 750 homes from 2014 to 2013 (Policy Villages 2). Wroxton has a small number of services and facilities, with a primary school, a public house (currently closed), a hotel, a village hall and recreation facilities, and there are limited employment opportunities. Wroxton does benefit from bus links on the main road to Banbury and Stratford.
- 9.15. The 2022 Annual Monitoring Report reports that 703 dwellings have now been completed at Category A villages, with a further 165 under construction (running total 868) and 48 likely to be built out i.e. sites where part of the development has been completed (running total 916). In addition, there are approvals for a further 314 not yet commenced (running total 1230).
- 9.16. The Tappers Farm (Bodicote) 2019 appeal decision (which applied the same logic as the Launton appeal decision a year earlier) provides a useful steer as to how the decision taker should apply PV2. At the time of the Tappers Farm decision, 271

dwellings had been delivered at Category A villages under PV2, with a further 425 under construction, and an annual delivery rate of 54 dwellings per year from PV2, which would have resulted in the delivery of 750 homes by 2028. The Tappers Farm Inspector stated,

“There will undoubtedly be a point where there will be a situation that will result in the material increase over the 750 dwellings figure and at that time there will be some planning harm arising from the figure being exceeded, for example harm to the overall locational strategy of new housing in the district. There is no substantive evidence before me to demonstrate that this is the case in this appeal. Clearly, when considering any subsequent schemes however, this matter will need to be carefully scrutinised.”

- 9.17. As noted above, 703 dwellings have now been delivered at Category A villages under PV2 and a further 213 dwellings are under construction across 10 different sites. The delivery rate in 2021-2 was 184 dwellings, the average annual delivery rate having risen to 78 dwellings per year and 134 dwellings per year over the last 4 years. It is reasonable to expect all of these 213 dwellings to be delivered – there are none so far in the plan period at Category A villages that once commenced have not been completed – and therefore the total number of dwellings delivered under PV2 will exceed the total of 750 set out in the policy.
- 9.18. Applying the conclusions of the Launton and Tappers Farm inspectors, it is considered that that the point may soon be reached where planning harm could be caused to the overall locational strategy of new housing in the district through further permissions at unsustainable locations.
- 9.19. Due to the above housing figures, scrutiny is required to be given to new proposals to ensure no harm would be carried out to the Category A villages, as the housing target has been reached.

Policy Villages 2 Criteria

- 9.20. The applicable criteria of Policy Villages 2 are provided at paragraph 9.11 above. The land has been used for agricultural purposes as a farmyard, and is graded 5 for best and most versatile land.
- 9.21. The application site is situated outside of the built up limits of Wroxton, the Category A village. Wroxton has a limited level of service provision, meaning future occupiers would have to travel for most services. Future occupiers of the proposed dwellings would have to travel to other settlements to meet their day-to-day needs, and would be reliant on a private car to access most services.
- 9.22. It is noted that appeals have been dismissed in relation to sites at the smaller Category A villages: Weston on the Green (APP/C3105/W/16/3158925 and APP/C3105/W/19/3233293), Chesterton (APP/C3105/W/15/3130576), Finmere (APP/C3105/W/17/3169168) and Fringford (APP/C3105/W/18/3204920). In each of the aforesaid cases the Planning Inspectors gave significant weight to the sustainability of the settlement and the appropriateness of growth in these locations under Policy Villages 2 in coming to their decisions.

Conclusion

- 9.23. The provision of housing can represent a significant positive material consideration to weigh in the planning balance, however, this application proposes a modest 10 dwellings at Category A village with limited facilities, where the housing strategy in

the Cherwell Local Plan seeks to distribute new housing to the most sustainable locations. As such, compliance with other parts of Policy Villages 2 will be a key consideration of the assessment of this application, as discussed below.

Design, and Impact on the Character of the Area

Policy

- 9.24. 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.
- 9.25. Saved Policies C28 and C30 of the CLP 1996 exercises control over all new development 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.
- 9.26. Government guidance contained within the NPPF requires good design, and 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 opportunity to improve the character and quality of an area and the way it functions.
- 9.27. Cherwell's Residential Design Guide SPD (2018) provides a framework for applicants to inform the detailed design of their proposals. Chapters 5 – 7 of the document outlines how site analysis should inform the detailed design of streets, plots and buildings.
- 9.28. Chapter 6 of Cherwell's Residential Design Guide highlights the issue of 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'*.

Assessment

- 9.29. The proposal seeks approval for 9 new build dwellings and 1 conversion of a barn, following the demolition of 3 modern barn buildings. The proposed site layout plan comprises the dwellings surrounding a proposed gravelled courtyard which would provide parking for the proposed dwellings. There are no details provided as to how the parking areas would be established on the courtyard. This design approach does not respect good urban design principles, as it provides a large expanse of hardstanding to the frontage, and does not provide an appropriate level of landscaping to soften the frontage of the proposed dwellings. Further, the positioning of the dwellings is cramped and this is exacerbated by the lack of landscaping, as it demonstrates an appropriate layout cannot be achieved without compromising good urban design. As such, the site layout is not reflective of the wider area of Wropton, and does not achieve a high level of design through the lack of landscaping and overprovision of hardstanding.
- 9.30. The design of the proposed dwellings is convoluted. The windows do not line through horizontally or vertically. Plots 7 – 10 have a rear projecting catslide roof, which is not a characteristic form of design for the area. This element results in an alien feature which would appear incongruous within the visual amenity of the area, as the rear of

the properties are visible in the public realm. Plots 4 and 5 are 'L' shaped properties, that appear unduly bulky in relation to the wider area and the site. These properties incorporate large modern glazing, which is not characteristic within the site, nor the wider street scene.

- 9.31. The development on Lampitts Green and Dark Lane is generally linear and fronts the road, with the exception of Laurels Farm which is set back significantly from this character. The site is bound by agricultural fields to the south and west, and the site is agricultural in character. Due to the agricultural use and the position set significantly back from Lampitts Green and Dark Lane, and therefore the site is not considered to be within the built up limits of the village. The site appears to be within the countryside when viewed from Newington Road and Stratford Road.
- 9.32. Although there has not been a formal consultation response from Landscape colleagues, it is noted the site is highly visible in the public realm from the views from Newington Road and Stratford Road. The change from the agricultural buildings to dwellings would detrimentally impact the rural landscape and would appear as part of the village, therefore contributing to the fact the site is not positioned within the built up limits of the village. The change from agricultural to residential would appear incongruous within the rural landscape, and therefore should not be supported.
- 9.33. The proposed access road joining the application site to Newington Road would adversely affect the character and appearance of the area through an urbanising form of development and would both visually and physically detach the site from the village. There is a 1.2m high post and rail fence with pedestrian access separating the application site to Lampitts Green. This results in a physical barrier between the site and Wroxton, due to providing no vehicular access. Additionally, this supports that the position of the site outside the limits of the village, and further perpetuates that notion, due to the physical separation caused by the access road leading onto Newington Road.

Conclusion

- 9.34. The application results in a poor form of urban design, owing to the cramped layout and excessive level of hardstanding. The proposed design of the dwellings are poor, as they result in contrived elevations that do not compliment or enhance the surrounding area. Due to the position outside of the built up limits of the village, it would have a detrimental impact on the landscape and visual amenity, as it would appear that the village is sprawling into the countryside. This effect is compounded by the proposed access from Newington Road, which would itself have a significant adverse effect on the character and appearance of the area. The separation of the site from Wroxton, due to the blocked vehicular access, results in a disconnection between the site and the village, which further alters the character of the village and wider landscape. Although it is noted design is a subjective judgement, it can be reasonably demonstrated that the site results in a poor design, which conflicts with Policy ESD15 of the CLP 2015, saved Policy C28 of the CLP 1996 and advice contained within the Cherwell Residential Design Guide, all of which is supported by the NPPF.

Heritage Impact

Legislative and policy context

- 9.35. The site is within Wroxton Conservation Area and Laurels Farm Barns are identified as non-designated heritage assets within the Wroxton Conservation Area Character Appraisal. The site is in close proximity to Wroxton Abbey Registered Parkland.

- 9.36. 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.*
- 9.37. 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.
- 9.38. 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.
- 9.39. The Conservation Officer does not raise concerns about the proposed use of residential development in this location, in principle. The Officer noted the number of units should be reduced to appear as an informal settlement, rather than a '*suburban housing development*'. The Officer noted the loss of the working farmyard would result in a detrimental impact to the character of the area, as the Wroxton Conservation Area Appraisal notes '*The village was traditionally focused around agriculture and the estate, today Laurels Farm on Lampitts Green is the only working farm that remains*'. It is noted there is an intention to relocate the farmyard, although it would be located further from Wroxton and has not received any approval from the Council.

Residential Amenity

- 9.40. 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, amongst other things, '*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.*'
- 9.41. The proposed dwellings are not sited in close proximity to neighbouring dwellings. Plot 2 has a rear wall to wall distance of 36.5m, which is in excess of the 22m required by the SPD. Plot 1 is sited in close proximity to the dwellings to the west, although it is noted this building is a conversion, and would be constrained by the existing building. There are not any amenity concerns with surrounding properties.
- 9.42. The proposed dwellings are cramped, and results in poor relationships between the dwellings. Plot 1 has first floor bedrooms served exclusively by rooflights. This would provide limited outlook, which is exacerbated by the proximity of the flank gable wall of Plot 2, which is approximately 12m away. Generally speaking, the separation distances within the development are compliant with the SPD.
- 9.43. Overall, while the residential amenity impacts highlights why the development is cramped and contrived, they do not in themselves result in a reason to refuse the application.

Highway Safety

Policy

- 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.*
- 9.45. In addition, 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.'*
- 9.46. The local highway authority (LHA) has objected to the planning application, due to the insufficient information on the refuse strategy and cycle parking. The ifHighLHA notes that 9 wheelie bins being placed kerbside on a junction with sub-standard visibility is not considered safe and appropriate. In its current form, the position for the refuse collection is considered to result in a detrimental impact to highway safety, due to the visibility along Dark Lane. Further, no details of cycle parking have been provided. It is noted this element could be secured by condition, if the development were to be approved. Officers have also stated they would require further information about the proposed vehicle access from Newington Road, including dimensions, construction, lighting, traffic calming and drainage. This has not been provided, although could be secured by a condition if approved. Highways Officers do not object to the principle of the new access road.
- 9.47. Officers agree that the impact of the proposed bin collection is considered severe in the context of paragraph 111 of the NPPF. Further, there is insufficient information provided to propose appropriate cycle parking, although this could be conditioned.

Ecology Impact

Legislative context

- 9.48. 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.
- 9.49. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.
- 9.50. 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.

9.51. 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.

9.52. 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

9.53. 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.

9.54. Paragraph 175 states that when determining planning applications, local planning authorities (LPAs) 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.

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

- 9.56. 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.
- 9.57. Policy ESD11 is concerned with Conservation Target Areas (CTAs) and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.
- 9.58. 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.
- 9.59. 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 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

- 9.60. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:
- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development

It also states that LPAs can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
 - an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')
- 9.61. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site contains three modern barn buildings, along with the traditional barn building.
- 9.62. The application is supported by a detailed protected species survey which concluded that there are no protected species or habitat issues on site which could not be dealt with through mitigation and reasonable avoidance measures. There was evidence of swallows nesting within buildings on the site and a mitigation scheme for swallows should be conditioned to ensure there is no loss of nesting opportunity for this species.
- 9.63. The Council's Ecologist has noted there has been no demonstration of a measurable net gain for biodiversity. The supporting information notes the need for the 10% biodiversity net gain, although has not provided a metric or assessment in this regard. A suggestion is that appropriate landscaping could be carried out within the site to achieve the net gain, due to the size of the site.

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

Drainage

9.65. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 163 of the NPPF 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.'*

9.66. 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.'*

9.67. Policy ESD6 of the CLP 2015 replicates national policy 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.

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

9.69. The application site is located within a very low risk area for flooding, with a chance of flooding of less than 0.1% each year.

9.70. OCC's Lead Local Flood Authority (LLFA) has reviewed the application, and objects due to the lack of SuDS information, along with no drainage or pipe details submitted with the scheme. As such, there is sufficient information to demonstrate that the scheme is compliant with the above policies.

S106

9.71. Paragraph 54 of the NPPF states that *'local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.'*

Paragraph 56 continues by stating that planning obligations must only be sought where they meet all of the following tests:

a) necessary to make the development acceptable in planning terms;

b) directly related to the development; and

c) fairly and reasonably related in scale and kind to the development.

9.72. Policy INF1 of the CLP 2015 covers the issue of Infrastructure. This Policy states, amongst other things, that the *Council's approach to infrastructure planning in the District will identify the infrastructure required to meet the District's growth, to support the strategic site allocations and to ensure delivery by:*

- *Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.*

9.73. Policy BSC 3 of the CLP 2015 states, amongst other things that at *Kidlington and elsewhere, all proposed developments that include 11 or more dwellings (gross), or which would be provided on sites suitable for 11 or more dwellings (gross), will be expected to provide at least 35% of new housing as affordable homes on site. The Policy continues by stating that, all qualifying developments will be expected to provide 70% of the affordable housing as affordable/social rented dwellings and 30% as other forms of intermediate affordable homes. Social rented housing will be particularly supported in the form of extra care or other supported housing. It is expected that these requirements will be met without the use of social housing grant or other grant.*

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

9.75. Due to the level of development on the site the issue of affordable housing should be taken into account. Paragraph 65 of the NPPF states that *where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups.* This application is for 35 residential units on the site which would represent a major application in terms of definition. For this reason, the application should provide an element of affordable housing as part of the proposal.

9.76. The policy requirement is for 35% affordable housing as set out in Policy BSC3 in the CLP 2015, which would equate to 4 units. The tenure mix for affordable homes should be 25% First Homes, 70% social/affordable rent and 5% intermediate housing such as shared ownership. In addition, this it is also considered that the development should contribute towards community hall facilities, indoor and outdoor sports provision, towards Public Art, highway infrastructure improvements and health care contributions necessary for the development as outlined by the comments of the consultees.

9.77. The application is not supported by a draft heads of terms of the agreement, and are likely to include the following:

- Affordable housing – 35% provision
- Offsite sport (indoor (£8,349.47) and outdoor (£20,170.03)) and recreation contributions
- Community hall contributions (£11,442.02)
- Household waste recycling centre contribution (£940)

9.78. Should the application be approved in the future, a Section 106 agreement would be negotiated based on the above figures.

10. PLANNING BALANCE AND CONCLUSION

10.1. In reaching an informed decision on planning applications, there is a need for the local planning authority to undertake a balancing exercise to examine whether the adverse impacts of a development would be outweighed by the benefits such that, notwithstanding the harm, it could be considered sustainable development within the meaning given in the NPPF. In carrying out the balancing exercise it is, therefore, necessary to take into account policies in the development plan, as well as those in the NPPF. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined against the provisions of the development plan, unless material considerations indicate otherwise. The NPPF supports this position and adds that proposals that accord with an up-to-date development plan should be approved and those which do not should normally be refused, unless outweighed by other material considerations.

Positive benefits – Economic

10.2. The proposal would contribute to the Council's housing supply due to the size and duration of the project. The proposals would create construction jobs and support facilities through developer contributions. Given the small nature of the proposal, this should be afforded limited positive weight.

Social

10.3. Significant weight can be given to the provision of the proposed housing, but given the small scale nature of the proposal, this has limited weight.

Environmental

10.4. The proposals may be able to commit to an appropriate level of biodiversity net gain, which would be secured by condition if approved.

Negative Impacts

10.5. It is important to summarise the negative impacts in terms of the development and consider whether the positive benefits outweigh the negative impacts.

10.6. The application site is positioned beyond the existing built-up limits of the village, and is therefore considered an area of countryside. The proposals would adversely affect the character and appearance of the area, with this impact emphasised by the proposed access from Newington Road, which would itself adversely affect the character and appearance of the area.

Conclusion

- 10.7. On the basis that the Council is able to demonstrate a five-year housing land supply, the housing policies of the Development Plan are the starting point for decision making and afforded full weight.
- 10.8. The site is unallocated in the adopted CLP 2015. The proposal seeks permission for 9 new dwellings and 1 barn conversion outside the built up limits of a Category A village. The proposal is unacceptable in principle, due to the housing land supply, and the application consists of a poor form and layout, inappropriately designed dwellings, highways concerns and insufficient information about Sustainable Urban Drainage Systems to ensure the application is compliant with policy. No Section 106 agreement has been entered, and therefore the application also fails on this basis. On this basis, the application constitutes unsustainable development, and the limited planning benefits of the proposal are significantly outweighed by the harm identified. As such, planning permission should be refused.

11. RECOMMENDATION

REFUSAL FOR THE REASONS SET OUT BELOW

REASONS FOR REFUSAL

1. The site is located outside the built form of the village and within an area of open countryside. The layout of the proposal results in a cramped and constrained overdevelopment of the site, which is exacerbated by a lack of appropriate front landscaping. The proposal fails to reflect or reinforce the existing pattern or form of development within the immediate area and the character of the village. By reason of its scale, siting, design and nature, the proposed development would adversely impact the character and appearance of the area, which is exacerbated by the separate access proposed to Newington Road, which would itself adversely affect the character and appearance of the area. In addition, the Council is able to demonstrate a 5.4-year housing land supply, and therefore the housing strategies in the Local Plan are up to date. It is considered that the development of this site would conflict with the adopted policies in the local plan, and would undermine the housing strategy in the Cherwell Local Plan, which seeks to distribute new housing to the most sustainable locations. Furthermore, the proposal constitutes residential development in the open countryside, beyond the built-up limits of the settlement, for which it has not been demonstrated that there is an essential need. The principle of this development is therefore unacceptable, as it is contrary to Policies PSD1, ESD1, ESD15, Villages 1 and Villages 2 of the Cherwell Local Plan 2011-2031, Saved Policy C28, C30 and H18 of the Cherwell Local Plan 1996, Cherwell Residential Design Guide 2018 and the guidance contained within the National Planning Policy Framework.
2. The detailed design of the dwellings is convoluted, as it includes poor fenestrations, lack of landscaping, and modern glazing, which is out of character with the wider area. The proposed dwellings would result in a contrived design, which would have a detrimental impact to Wroxton Conservation Area and the visual amenity of the area. The proposal is therefore contrary to Policy ESD15 of the CLP 2015 and saved Policy C28 of the CLP 1996 and Government guidance contained in the National Planning Policy Framework.
3. The currently proposed refuse collection position is not acceptable, as it would result in an obstruction to the junction, resulting in an insufficient level of visibility, that is not considered to be safe or appropriate. As such, the proposal results in a severe impact to highway and pedestrian safety, contrary to Policies SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government

guidance contained within the National Planning Policy Framework.

4. There is insufficient information provided to demonstrate the provision of Sustainable Urban Drainage Systems, and therefore fails to justify the environmental mitigation of the scheme to prove it is acceptable in relation to Policies ESD6 and ESD7 of the Cherwell Local Plan 2015, and the guidance contained within the National Planning Policy Framework.
5. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement, the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure contributions required as a result of the development and necessary to make the impacts of the development acceptable in planning terms to the detriment of both existing and proposed residents and workers. This is contrary to INF1 of the Cherwell Local Plan 2011-2031, CDC's Developer Contributions SPD 2018 and guidance contained within the National Planning Policy Framework.