

Case Officer: Jeanette Davey

Applicant: Manorwood Consultancy Ltd

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

Ward: Fringford And Heyfords

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

Reason for Referral: Major development

Expiry Date: 21 November 2023

Committee Date: 7 December 2023

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

1. APPLICATION SITE AND LOCALITY

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

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

2. CONSTRAINTS

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

3. DESCRIPTION OF PROPOSED DEVELOPMENT

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

4. RELEVANT PLANNING HISTORY

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

14/01531/OUT Non-determination appeal dismissed 27.08.2015

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

14/02139/OUT Refused. Dismissed at appeal 12.05.2016

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

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

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

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

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

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

4.3. The application 14/02139/OUT had two reasons for refusal. The first is listed below. The second was in the absence of a satisfactory planning obligation:

4.4. *Notwithstanding the Council's present inability to demonstrate that it has a five year housing land supply as required by paragraph 47 of the National Planning Policy Framework, the development of this site as proposed cannot be justified on the basis of the land supply shortfall alone. The proposal constitutes development which by virtue of its scale, size and form fails to respect the traditional settlement pattern of Kirtlington, extending beyond its built up limits into the open countryside, resulting in an incongruous, unsustainable and inappropriate form of development which pays little regard to the traditional settlement pattern and which would relate poorly to the remainder of the Village, and cause demonstrable harm to the character of the Village and visual amenities of the immediate locality, contrary to Policies H18, C8, C27, C28 and C30 of the Adopted Cherwell Local Plan Policies ESD13 and ESD15 of the Submission Cherwell Local Plan and Central Government advice within the National Planning Policy Framework.*

4.5. Paragraph 50 of the appeal decision gave considerable weight to the conflict with the (*then*) local planning policy which sought to steer most new housing towards the main

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

5. PRE-APPLICATION DISCUSSIONS

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

6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **13 October 2023**, although comments received after this date and before finalising this report have also been taken into account.

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

Objections - Past planning decisions

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

Objections - Impact on the settlement and neighbouring residential amenity

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

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

Objections - Highways and access

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

Objections - Ecology

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

Objections - Infrastructure

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

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

Objections - Housing and local employment supply

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

Objections - Other

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

Support – Woodstock Way PROW

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

Support – Housing supply

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

Support – Highways

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

Support – Infrastructure

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

Support – Impact on the settlement

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

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

7. RESPONSE TO CONSULTATION

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

PARISH COUNCIL AND NEIGHBOURHOOD FORUMS

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

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

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

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

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

CONSULTEES

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

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

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

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

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

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

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

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

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

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

- 7.14. CDC LANDSCAPE (summary):

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. RELEVANT PLANNING POLICY AND GUIDANCE

- 8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2015)

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

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

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

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

MID-CHERWELL NEIGHBOURHOOD PLAN 2018-2031

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

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

8.4. Other Material Planning Considerations

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

9. APPRAISAL

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

Principle of Development

Policy Context

Development Plan

- 9.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for this area comprises the adopted Cherwell Local Plan 2011-2031 Part 1 (CLP 2015) and the saved policies of the Cherwell Local Plan 1996 (CLP 1996).
- 9.3. Policy PSD1 of the CLP 2015 states that when considering development proposals, the Council will take a proactive approach to reflect the presumption in favour of sustainable development contained in the National Planning Policy Framework (NPPF). The policy continues by stating that planning applications that accord with the policies in this Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise. Paragraph B88 of the CLP 2015 also highlights that by focusing development in and around the towns of Bicester and Banbury we aim to ensure that the housing growth which the District needs only takes place in the locations that are most sustainable and most capable of absorbing this new growth.
- 9.4. In terms of affordable housing provision Policy BSC3 of the CLP 2015 states that all proposed developments that include 11 or more dwellings (gross), or which would be provided on sites suitable for 11 or more dwellings (gross), will be expected to provide at least 35% of new housing as affordable homes on site. The Policy continues by stating that should the promoters of development consider that individual proposals would be unviable with the above requirements, 'open-book' financial analysis of proposed developments will be expected so that an in-house economic viability assessment can be undertaken. Where it is agreed that an external economic viability assessment is required, the cost shall be met by the promoter. Where development is demonstrated to be unviable with the above requirements, further negotiations will take place. These negotiations will include consideration of: the mix and type of housing, the split between social rented and intermediate housing, the availability of social housing grant/funding and the percentage of affordable housing to be provided.
- 9.5. Policy BSC1 of the CLP 2015 states that Cherwell District will deliver a wide choice of high-quality homes by providing for 22,840 additional dwellings between 1 April 2011 and 31 March 2031. 1,106 completions were recorded between 2011 and 2014 leaving 21,734 homes to be provided between 2014 and 2031.

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

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

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

Comments made by the MCNP Forum

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

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

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

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

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

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

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

Assessment

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

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

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

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

Conclusion

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

Impact on the character of the area

Policy context

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

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

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

Conclusion

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

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

Residential amenity for adjoining neighbours

Policy context

- 9.55. Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. These provisions are echoed in Policy ESD15 of the CLP 2015 which states: *New development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space.*

Assessment

- 9.56. The application is in outline only and therefore all detailed proposals in reserved matters applications would need to have due regard to the requirements of Section 6 of the Residential Design Guide SPD with regard to appropriate standards of amenity for both existing and future residents. Appropriate positioning and scale of dwellings, boundary treatments and the nature of such treatments will be given due consideration at reserved matters stage.
- 9.57. The proposed development would be located to the west of the existing residential dwellings at Hatch Way and Oxford Close. At reserved matters stage a suitable separation distance and orientation of the proposed properties can be agreed to ensure the existing neighbouring dwellings are afforded suitable protection. A condition is proposed to ensure that full details of existing and proposed levels are submitted as part of any reserved matters application.

Conclusion

- 9.58. Given the above, it is considered that the development could be made acceptable in residential amenity terms, both for existing residents neighbouring the site and future occupiers, with acceptable details to be secured at reserved matters stage in accordance with the requirements of Policy ESD15 of the CLP 2015, Policy C30 of the CLP 1996 and Government guidance set out in the NPPF.

Highway safety and public transport

Policy Context

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

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

Assessment

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

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

Conclusion

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

Ecology Impact

Legislative context

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

Policy Context

- 9.70. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 9.71. Paragraph 175 states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 9.72. Policy ESD10 of the CLP 2015 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.73. This policy is supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.74. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should

only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Assessment and Conclusion

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

Flood Risk and Drainage

Policy context

- 9.76. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 16 of which states that *when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*
- *within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
 - *the development is appropriately flood resistant and resilient;*
 - *it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
 - *any residual risk can be safely managed; and*
 - *safe access and escape routes are included where appropriate, as part of an agreed emergency plan.*
- 9.77. Paragraph 169 of the NPPF continues by stating that *major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:*
- *take account of advice from the lead local flood authority;*
 - *have appropriate proposed minimum operational standards;*
 - *have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and*
 - *where possible, provide multifunctional benefits.*
- 9.78. Policy ESD6 of the CLP 2015 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding.
- 9.79. Policy ESD7 of the CLP 2015 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District.

Assessment

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

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

Conclusion

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

Affordable Housing

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

Sustainable Construction and Energy Efficiency

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

Noise, Contamination and Air Quality

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

Impact on Local Infrastructure

Policy Context

- 9.88. Policy INF1 of the CLP 2015 states that: *“Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.”*
- 9.89. Policy BSC11 of the CLP 2015 states that: *“Development proposals will be required to contribute to the provision of open space, sport and recreation, together with secure arrangements for its management and maintenance. The amount, type and form of open space will be determined having regard to the nature and size of development proposed and the community needs generated by it. Provision should usually be made on site in accordance with the minimum standards of provision set out in ‘Local Standards of Provision – Outdoor Recreation’. Where this is not possible or appropriate, a financial contribution towards suitable new provision or enhancement of existing facilities off site will be sought, secured through a legal agreement.”* Policy BSD12 requires new development to contribute to indoor sport, recreation and community facilities.
- 9.90. The Developer Contributions Supplementary Planning Document (SPD) sets out the position in respect of requiring financial and onsite contributions towards ensuring the necessary infrastructure or service requirements are provided to meet the needs of development, and to ensure the additional pressure placed on existing services and infrastructure is mitigated. This is the starting point for negotiations in respect of completing S106 Agreements.

Assessment

- 9.91. Where on and off-site infrastructure/measures need to be secured through a planning obligation (i.e. legal agreement) they must meet statutory tests set out in regulation 122 of the Community Infrastructure Ley (CIL) Regulations 2010 (as amended). These tests are that each obligation must be:
- Necessary to make the development acceptable in planning terms;
 - Directly related to the development;
 - Fairly and reasonably related in scale and kind to the development.
- 9.92. Where planning obligations do not meet the above statutory tests, they cannot be taken into account in reaching a decision. In short, these tests exist to ensure that local planning authorities do not seek disproportionate and / or unjustified infrastructure or financial contributions as part of deciding to grant planning permission. Officers have had regard to the statutory tests of planning obligations in considering the application and Members must also have regard to them to ensure that any decision reached is lawful.
- 9.93. Having regard to the above, in the event that Members were to resolve to grant planning permission, a list of those items that, in officers’ view, need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council, has been listed in the Recommendation. This is in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts.

Conclusion

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

10. PLANNING BALANCE AND CONCLUSION

10.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 advises that the three dimensions to sustainable development (economic, social and environmental), which are interdependent, need to be pursued in mutually supportive ways.

10.2. Government guidance within the NPPF supports the plan-led system and advises that applications that accord with an up-to-date plan should be approved without delay. This includes accordance with the MCNP as the most up-to-date plan for the village.

10.3. In reaching an informed decision on planning applications there is a need for the Local Planning Authority to undertake a balancing exercise to examine whether the adverse impacts of a development would be outweighed by the benefits such that, notwithstanding the harm, it could be considered sustainable development within the meaning given in the NPPF. In carrying out the balancing exercise it is therefore necessary to take into account policies in the development plan as well as those in the NPPF. It is also necessary to recognise that Section 38 of the 1990 Act continues to require decisions to be made in accordance with the development plan and the NPPF highlights the importance of the plan-led system as a whole.

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

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

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

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

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

11. RECOMMENDATION

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

- i. THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND;**
- ii. THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):**
 - a) Provision of six affordable housing units on site, comprising 2 x First Homes (a minimum of 25% of the total) and 4 x rented. The four rented units shall comprise 1 x 2-bedroom house, 2 x 3-bedroom house, 1 x 4-bedroom house.**
 - b) Payment of a financial contribution of £16,995 index linked from December 2021 using RPI-x, towards the provision of public transport for a bus service to be continued in Kirtlington.**
 - c) Payment of a financial contribution of £1,502 index linked from December 2021 using Baxter, towards improvements to infrastructure at the Oxford Arms bus stop.**
 - d) Payment of a financial contribution of £6,652 index linked from November 2023 using RPI-x, towards a Traffic Regulation Order, if not dealt with under S278 / S38 agreement, for consultation on and implementation of speed limit changes.**
 - e) Payment of a financial contribution of £20,000 index linked from November 2023 using RPI-x for the provision of vehicle activated signage.**
 - f) Provision of the site access, village gateway treatment and footpath linking to the existing footpath and footpath improvements opposite Bletchington Road.**
 - g) No development shall commence until S.278 agreement has been entered into, including relevant payments and commuted sums.**
 - h) Payment of a financial contribution towards off site sports and recreation provision towards improvements and enhancements at Kirtlington Village Hall totalling £16,530.12, the enhancement of formal off-site outdoor sports facilities in Kirtlington totalling £30,255.45, and off-site indoor sport contribution towards improvements aimed at increasing the capacity for indoor sport at Kirtlington Village Hall totalling £12,071.52. This would be index linked.**
 - i) Payment of a financial contribution towards the expansion and efficiency of Household Waste Recycling Centre (HWRC) capacity totalling £1,409 (index linked).**
 - j) Payment of a financial contribution towards educational infrastructure serving the provision of secondary education for four pupils of £103,968 (index linked), subject to amendment should the final unit mix of dwellings result in an increase in pupil generation.**
 - k) Payment of a financial contribution towards LAP maintenance for 15 years of £50,279.76, subject to indexation fluctuation in accordance with BCIS All in One Tender Price index by RICS.**
 - l) Payment of a financial contribution towards informal open space maintenance for 15 years of £16.09 per sq.m, subject to indexation**

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

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

n) Monitoring fee

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

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

CONDITIONS

Time Limits

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

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

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

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

3. In the case of the reserved matters, the final application for approval shall be made not later than the expiration of three years beginning with the date of this permission.

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

Compliance with Plans

4. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Location Plan Dwg No 1001.101 Rev B dated October 2022.

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

Finished floor levels

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

Reason: To secure an acceptable standard of development that safeguards the visual amenities of the area and the living conditions of existing and future occupiers and to ensure compliance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance within Section 12 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Accessible and adaptable homes

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

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

Construction Traffic Management Plan (CTMP)

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

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

Means of Access

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

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

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

Noise

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

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

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

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

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

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

Contaminated land

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

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

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

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

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

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

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

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

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

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

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

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

Protected Species

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

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

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

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

Planning Policy Framework.

Biodiversity Enhancement

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

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

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

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

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

Lighting strategy

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

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

Government guidance contained within the National Planning Policy Framework.

Sustainable Urban Drainage System

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

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

Surface Water Drainage

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

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

SuDS As Built and Maintenance Details

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

structures on site;

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

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

Sustainability

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

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

Informatives:

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

CASE OFFICER: Jeanette Davey