

**Case Officer:** Nicola Wheatcroft

**Applicant:** Laxton Properties

**Proposal:** Re-development of an existing yard for the erection of 10 residential dwellings (Use Class C3) including allotments, footpath, public open space and other associated works

**Ward:** Deddington

**Councillors:** Councillor Zoe McLernon, Edward Fraser Reeves, David Rogers

**Reason for Referral:** Major development of 10+ dwellings

**Expiry Date:** 28 April 2026

**Committee Date:** 16 April 2026

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## **SUMMARY RECOMMENDATION: REFUSE PERMISSION**

### **MAIN REPORT**

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

1.1. The application site is an operational farm located outside the village of Somerton. The farm consists of a number of large modern farm buildings located to the south of Fritwell Road adjacent to the farmhouse. Opposite the site is a well established copse. A dwellinghouse, Oakwood House, is adjacent to the north-east and shares the farmyard access. The farmyard is in the open countryside with the eastern edge of Somerton approximately 185m from the site access.

#### **2. CONSTRAINTS**

2.1. The application site is within the open countryside with the entrance located approximately 185m from the village and Conservation Area.

2.2. The site is in Flood Zone 1 and is not subject to any relevant constraints or designations. There are two Scheduled Monuments in the village, Somerton Manor House Scheduled Monument is located within 1km of the site.

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

3.1. Full planning permission is sought for the erection of 10 dwellings following the removal of the existing farm buildings. The scheme comprises 8 detached 2 storey houses and 2 single storey bungalows. The dwellings are arranged in two small cul-de-sacs utilising the existing access. The designs are generally traditional with pitched slate roofs and stone elevations. Seven of the properties are proposed to have double garages, 1 house will have a single garage and two houses will have 2 on plot parking spaces.

3.2. Also proposed is a community allotment located to the east of the housing with access provided through the site. Fourteen allotment pitches are proposed and six parking spaces.

- 3.3. A footpath link is proposed into to the village running to the south of Fritwell Road and then around Glyde House.
- 3.4. Also proposed is triangular shaped piece of land located to the south of Ardley Road to function as an amenity area. The land measures 1,064m<sup>2</sup> in size to be used for informal play and amenity space.

#### 4. RELEVANT PLANNING HISTORY

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

Application	Proposal	Outcome
24/03096/Q56	Prior approval application under Schedule 2, Part 3, Class Q of the GPDO for conversion of an existing agricultural barn to a total of 6 no residential dwellinghouses	Permitted March 2025
19/01003/AGN	Building for storage of agricultural machinery / implements	Prior Approval not required, August 2019

#### 5. PRE-APPLICATION DISCUSSIONS

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

25/00883/PREAPP	The proposed demolition of all existing agricultural structures and re-development of the site for 20 dwellings at Land at Dovecote Farm, Fritwell Road, Somerton and associated parking, landscaping and amenity space.	Any proposal is unlikely to be considered favourably
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- 5.2. It was considered that the adverse effects of allowing this number of houses in such an unsustainable location would significantly and demonstrably outweigh the benefits to the Council's Housing Land Supply.
- 5.3. It would also result in a new residential estate in the middle of the countryside, and would have an urbanising effect on the locality and result in an alien form of development in its immediate setting.

#### 6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records (amend as appropriate). The final date for comments was **4 March**

**2026**, although comments received after this date and before finalising this report have also been taken into account.

6.2. No comments have been raised by third parties

## **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.

7.2. SOMERTON PARISH COUNCIL: **No observations** received

7.3. OCC MINERALS AND WASTE PLANNING: **Objects**, the eastern part of the application site lies within a Minerals Safeguarding Area for Crushed Rock and the proposal could result in more sensitive receptors which could sterilise the future working of the mineral.

7.4. OCC ARCHAEOLOGY: further information required

7.5. CDC ENVIRONMENTAL PROTECTION: **No objection** subject to conditions.

7.6. CDC DRAINAGE: **No objection**

7.7. CDC BUILDING CONTROL: **No objection**

7.8. CPRE: **Objects**

7.9. THAMES WATER: **Raises concerns** about the ability of the sewage treatment works to accommodate the needs of this development and require a condition preventing any occupation until upgrades have been agreed. Plus conditions relating to surface water and distance from water mains/pipes.

## **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)

- PSD 1: Presumption in Favour of Sustainable Development
- BSC 1: District-Wide Housing Distribution
- BSC 2: The Effective and Efficient Use of Land – Brownfield land and Housing Density
- BSC 3: Affordable Housing
- BSC 4: Housing Mix
- BSC 10: Open Space, Outdoor Sport and Recreation Provision
- BSC 11: Local Standards of Provision – Outdoor Recreation

- ESD 1: Mitigating and Adapting to Climate Change
- ESD 3: Sustainable Construction
- ESD 5: Renewable Energy
- ESD 6: Sustainable Flood Risk Management
- ESD 7: Sustainable Drainage Systems (SuDS)
- ESD 8: Water Resources
- ESD 10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD 13: Local Landscape Protection and Enhancement
- ESD 15: The Character of the Built and Historic Environment
- ESD 17: Green 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)

- C28 – Layout, design and external appearance of new development
- C30 – Design control
- ENV1 – Environmental pollution
- TR7 – Development attracting development on minor roads
- H18 – New Dwellings in the Countryside

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:

#### MID CHERWELL NEIGHBOURHOOD PLAN

- PD5: Building and Site Design
- PD6: Control of Light Pollution
- PH1: Open Market Housing Schemes
- PH3: Adaptable Housing
- PH5: Parking, Garaging and Waste Storage Provision

8.4. DRAFT CHERWELL LOCAL PLAN (DCLP) limited weight can be attributed to the Regulation 19 Draft Cherwell Local Plan (DCLP) at this stage as it has not been tested at examination

- SP1: Settlement Hierarchy.
- CSD1: Mitigating and adapting to climate change.
- CSD2: Achieving net zero carbon development residential.
- CSD 8: Sustainable Drainage Systems
- CSD 9: Water Resources and Wastewater Infrastructure.
- CSD 11: Protection and Enhancement of Biodiversity
- CSD 12: Biodiversity Net Gain.
- CSD 16: Air Quality
- CSD 18: Light Pollution
- CSD 23: Assessing Transport Impact/ Decide and Provide.
- LEC 6: Supporting A Thriving and Resilient Farming Sector.
- LEC7: Best and Most Versatile Agricultural Land.
- COM1: District Wide Housing Distribution
- COM3: Housing Size/Type

- COM10: Protection and Enhancement of the Landscape.
- COM 13: Settlement Gaps
- COM 14 Achieving Well Designed Places.
- COM 15 Active Travel - Walking and Cycling
- COM 20 Providing Supporting Infrastructure and Services.
- COM 22 Public Services and Utilities.
- COM23 Local Services and Community Facilities.
- COM24 Open Space, Sport and Recreation
- COM25 Local Green Space.
- COM 26 Historic Environment.

#### 8.5. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Design Guide (2018)
- Cherwell Home Extensions and Alterations Design Guide (2007)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- 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
- Design, and impact on the character of the area
- Residential amenity
- Ecology impact
- Fallback position

#### Principle of Development

##### *Policy Context*

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 (CLP 2015), the saved policies of the Cherwell Local Plan 1996 (CLP 1996) and the policies in the Mid Cherwell Neighbourhood Plan (HNNP).

9.3. 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. This is outlined in Policy BSC1 of the CLP 2015. With regards to villages, the 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 and therefore allows for an appropriate and proportionate amount of growth in the rural areas.

- 9.4. Strategic Objective SO7 of CLP 2015 refers to the need to meet the housing needs of all sections of Cherwell's Communities, particularly the need to house an ageing population.
- 9.5. Policy ESD1 of CLP 2015 identifies the measures to be taken to mitigate the impact of development within the District on climate change. This includes distributing growth to the most sustainable locations as defined in the Local Plan
- 9.6. Policies Villages 1 ('PV1') of CLP 2015 categorises the villages in Cherwell. Somerton is categorised by PV1 as being a Category C Village, the least sustainable villages, where infilling and conversion only may be considered acceptable.
- 9.7. The CLP 2015 Policies Map does not contain settlement boundaries for settlements within the District, nor does the Mid Cherwell Neighbourhood Plan identify a settlement boundary for Somerton.
- 9.8. Whilst limited weight can be attributed to the Regulation 19 Draft Cherwell Local Plan (DCLP) at this stage as it has not been tested at examination, Policy SP1 of the draft plan continues to identify Somerton as a category C Village Settlement. These are classified by the Draft Local Plan as being smaller villages containing only a limited number of services and facilities. With generally poor/irregular access to public transport.
- 9.9. Policy Villages 2 (PV2) of the CLP 2015 sets out the distribution of growth across the rural area. It states that a total of 750 homes will be delivered at Category A Villages.
- 9.10. Saved Policy H18 of the CLP 1996 refers to the development of dwellings beyond the built up limits of settlements.
- 9.11. The published Cherwell District Council latest Annual Monitoring Report dated February 2024 confirms that Cherwell District Council can only demonstrate a housing land supply of 3.1 years. PV1 and PV2 along with H18 and BSC1 cannot therefore be considered up-to-date. Policy PSD1 of the CLP 2015 and the paragraph 11 (d) of the NPPF which set out the presumption in favour of sustainable development are therefore engaged.
- 9.12. Policy PSD1 of the CLP 2015 states that where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether: any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or specific policies in the Framework indicate that development should be restricted.
- 9.13. Paragraph 11 (d) of the NPPF states where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, planning permission should be granted unless:
  - i) The application of policies in this Framework that protect areas of assets of particular importance provides a strong reason for refusing the development proposed; or
  - ii) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this

Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well designed places and providing affordable homes, individually or in combination.

- 9.14. The key consideration pertinent to the principle of development is therefore whether there are any adverse impacts that would significantly and demonstrably outweigh the benefits.
- 9.15. The Mid Cherwell Neighbourhood Plan (MCNP) was made in May 2019. Paragraph 14 of the NPPF states that in situations where the presumption in favour of sustainable development applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply:
- a) the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and*
- b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement (see paragraphs 69-70).*
- 9.16. As Cherwell District Council cannot demonstrate a five year housing land supply, the presumption in favour of sustainable development applies. The MCNP became part of the development plan in 2019 and is therefore more than five years old at the point of determination of this application. The reference to *and* in paragraph 14 of the NPPF implies that both parts A and B need to be met in order for the Neighbourhood Plan to be considered up-to-date. As the neighbourhood plan was adopted more than 5 years ago part A of paragraph 14 is not met. The housing policies in the HNNP cannot therefore be considered up-to-date.
- 9.17. The NPPF states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of grounds with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet an areas identified housing need, including with an appropriate mix of housing types for the local community.
- 9.18. The refence to the need to significantly boost the supply of housing aligns with the government's objective of building 1.5 million homes over the next 5 years as set out in the Building the Homes we Need Written Ministerial Statement dated December 2024. In order to achieve this objective it is clear that sites in sustainable locations should be considered for development.

#### *Assessment*

- 9.19. The application site is located outside the built up limits of the settlement, in light of which Policy Villages 2 is central to assessing the acceptability of the proposal. The policy states that "*a total of 750 homes will be delivered at Category A villages*". The proposed development would not accord with the development plan approach – the site is not allocated for development, well over 750 dwellings have been delivered at Category A villages, and the overall goal of the CLP 2015 is to direct housing towards the most sustainable, metropolitan areas such as Banbury, Bicester and Kidlington. However, given the current housing land supply within the district the tilted balance is engaged.

- 9.20. It is acknowledged, as stated in the Planning Policy consultation response, that this figure has now been exceeded, however various Appeal decisions (e.g. APP/C3105/W/23/3327213, July 2024; APP/C3105/W/23/3331122, May 2024) have established that this figure is not a cap or ceiling to development.
- 9.21. Somerton is identified under PV1 of CLP 2015 as a Category C settlement. These are the least sustainable villages. PV1 allows for residential development which constitutes infilling or change of use within the built-up limits of Category C villages.
- 9.22. The proposed development would not constitute infilling and the site is located beyond the built-up limits of the settlement into open countryside and is therefore contrary to the policies above contained within the Development Plan.
- 9.23. The development would not be in accordance with the development plan's allocations – the site is not allocated for development, well over 750 dwellings have been delivered at Category A villages, and the overall goal of the CLP 2015 is to direct housing towards the most sustainable, metropolitan areas such as Banbury, Bicester and Kidlington. However, given the current housing land supply within the district the tilted balance is engaged.
- 9.24. The key consideration pertinent to the principle of development on this site is therefore whether there are any adverse impacts that would significantly and demonstrably outweigh the benefits and whether the proposed development would improve the 5-year housing land supply position sufficiently to justify approval.
- 9.25. It is considered that the proposed development would not be in a sustainable location, outside of a Category C settlement and at a considerable distance from the nearest service centre village and key amenities. Strategic Objective 13 of the CLP 2015 aims to reduce the dependency on the private car as a mode of transport and increase opportunities for travelling by other modes. In terms of local facilities, there is little or nothing in Somerton – there is a church and a village hall but no school, GP surgery or shop. In addition, there is only a limited bus service to Bicester.
- 9.26. Therefore, residents must travel to nearby villages or Banbury or Bicester for services. Indeed, there is no footpath back to Somerton and the Fritwell Road is narrow. Whether or not an alternative pedestrian link back to the village can be / is provided, due to the rural location of the village and lack of public transport there would be a heavy reliance on the motor car to provide day to day goods and activities, contrary to that objective. The proposal therefore conflicts with Policy ESD1 of the CLP 2015 and the site's poor sustainability credentials weigh against the proposal.
- 9.27. There is a Class Q decision relating to part of the site for conversion of farm buildings to six dwellings. This is capable of providing a fallback position, but in this instance given (i) the number of dwellings proposed (10) exceeds that approval and (ii) the land coverage of the proposal significantly exceeds that of the Class Q decision, it is considered that little or no weight can be given to the Class Q decision.

### *Conclusion*

- 9.28. The provision of residential development on this site would assist, in a limited way, in meeting the overall housing requirements of the district. The latest housing supply figure for Cherwell District is calculated at significantly less than 5 years (3.1 years supply). As such the 'tilted balance' is engaged and there is a presumption in favour of sustainable development. The site is located outside of one of the least sustainable villages within Cherwell with limited facilities and service. The site is in

an inherently unsustainable location with any future residents having to be highly reliant on the private car and is considered unsuitable for residential use.

- 9.29. The principle of 10 dwellings in this location is contrary to Development Plan Policy Villages 1, Policy Villages 2 and ESD1 of the CLP 2031, and Saved Policy H18 of the CLP 1996; and as such the proposals would be contrary to the Council's rural housing strategy and associated policies, and are unacceptable in principle.

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

- 9.30. Policy ESD 15 of CLP 2018 highlights that 'good design is founded on an understanding and respect for an area's unique built, natural and cultural context. New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design.
- 9.31. The Council's Residential Design Guide SPD seeks to ensure that new development responds to the traditional settlement pattern, character and context of a village. This includes the use of continuous building forms along principle routes and adjacent to areas of the public open space, the use of traditional building materials and detailing and form that respond to the local vernacular.
- 9.32. Paragraph 131 of the NPPF states that the creation of high-quality, beautiful, and sustainable buildings and places is fundamental to what the planning and development process should achieve. Further to this, the Paragraph considers that good design is a key aspect of sustainable development which creates better places in which to live and work and helps make development acceptable to communities. Paragraph 84 of the NPPF states that planning decision should seek to avoid isolated homes in the countryside.

#### *Assessment*

- 9.33. The application site is currently occupied by a dairy farm and associated buildings which are a typical and fundamental part of rural life. The farm entrance is located approximately 180m from the village housing at its closest point. There is no footpath connection with the village and no lighting; consequently the farm is detached from Somerton. Any replacement housing would also appear isolated away from the village and would result in urbanisation of the rural site. This is contrary to the requirements of Paragraph 84 of the NPPF.
- 9.34. The site is located outside and is separated from the village. As well as the isolation of the site, the layout of the proposed development fails to reflect the rural character of Somerton. The dwellings are primarily large, detached bulky structures, a number with double garages, which appear more typical of urban areas than the village of Somerton. Some of dwellings have been designed with simple elevational treatment to reflect rural buildings. However, some dwellings have gable features which are more typical of modern estate housing. The deep plan form of the dwellings will mean that the houses will appear bulky and intrusive more typical of modern housing developments and out of character with the historic dwellings in Somerton.
- 9.35. In addition, the layout with cul-de-sacs does not reflect the form of Somerton with its more traditional street layout. Again, the layout is more typical of modern developments in urban areas. The development would result in the urbanisation of the site to the detriment of the rural character of the area. There is a degree of natural screening from the trees on and adjoining the site which would help limit views into the development but this is not sufficient to mitigate the harmful impact of the proposed housing.

- 9.36. The proposal includes the provision of a permissive footpath around the edges of the field into the village; this is discussed in more detail in the highways section of the report. However, even if an alternative pedestrian link to the village is provided, due to the rural location of the village and lack of public transport there would be a heavy reliance on the car to provide day to day goods and activities conflicting with Policy ESD1 of the CLP 2015.

#### *Conclusion*

- 9.37. Overall, it is considered that the proposal would result in harm to the rural character and appearance of the area and rural setting of the village and conflicts with Policies ESD1, ESD13 and ESD15 of the CLP 2015. It is considered to be contrary to Development Plan when considered as a whole.

#### Highway matters

- 9.38. Policy ESD15 of the CLP 2015 states that: "New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions"; whilst Policy SLE4 states that: "All development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported. Both policies reflect the aims and requirements of Section 3 (Promoting Sustainable Transport) of the NPPF.
- 9.39. Comments are awaited from the local highway authority; however, feedback was received on the pre-application submission and did not raise any fundamental issues or problems. The principle of an alternative pedestrian route across the fields was considered during the pre-application discussions and the Highway Engineer stated this would help facilitate safer pedestrian connectivity to Somerton Village and would be supported. The provision of an unlit pedestrian footpath across fields to Somerton would provide better connection with village itself but Somerton is a category C village with very limited facilities and services. Hence, the proposed development would remain reliant on private car for transport and is considered unsustainable contrary to Policies ESD1, ESD13 and ESD15 of the CLP 2025.

#### Ecology Impact

##### *Legislative context*

- 9.40. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.
- 9.41. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.
- 9.42. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown

through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.

9.43. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:

- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
- (2) That there is no satisfactory alternative.
- (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

9.44. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipe-lines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

#### *Policy Context*

9.45. Paragraph 180 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.

9.46. Paragraph 186 states that when determining planning applications, local planning authorities (LPAs) should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

9.47. Paragraph 191 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

- 9.48. 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.
- 9.49. Policy ESD11 is concerned with Conservation Target Areas (CTAs), and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.
- 9.50. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.51. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that LPAs should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

#### *Assessment*

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

It also states that LPAs can also ask for:

- 9.53. a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
- 9.54. an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')
- 9.55. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site consists of modern farm buildings in a mature wooded area. There are a number of trees close by and in the boundary of the site which would not be affected by proposals. There are no buildings to be removed or altered due to the proposed development.
- 9.56. Having considered Natural England's Standing Advice and taking account of the site constraints it is considered that the site has limited potential to contain protected species and any species present are unlikely to be adversely affected by the proposed development. As such no formal survey is required and in the absence of which this does not result in a reason to withhold permission. An informative reminding the applicant of their duty to protected species shall be included on the decision notice and is considered sufficient to address the risk of any residual harm.
- 9.57. A Biodiversity Net gain matrix has accompanied the application and comments from the Councils Ecologist are awaited

### Impact on Local Infrastructure Policy Context and S.106 Matters

- 9.58. 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.”
- 9.59. 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.”
- 9.60. The Council has an adopted Supplementary Planning Document (SPD) setting out its position in respect of requiring financial and on site 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
- 9.61. 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

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.

- 9.62. The applicant has offered the following as part of a S.106 package:
- The provision of an allotment site to be offered to the Parish council for adoption;
  - An amenity open space/play area on land south of Ardley Road;
  - The provision of a permissive footpath route between the application site and Fritwell Road;

- Any necessary highway works as recommended by the Highways Authority;
- Biodiversity Net Gain.

9.63. The provision of an allotment site for the occupiers of the development and the wider village would provide facilities for residents to use. However, from a practical point of view the location, size and management of the facility would need to be carefully considered. The play area again would provide facilities for the occupiers of the development and the village as a whole to utilise. However, further consideration would need to be given to this facility by the Council. No financial contribution has been offered for the management/maintenance. The permissive footpath would provide an off-road route from the application site into the village. Again further information is required on the exact route and surfacing including the connection to Fritwell Road where there is a difference in levels. The route would also need to be provided in definitely. The above package would help to mitigate

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

*Cherwell District Council*

- Provision of public open amenity space and future maintenance arrangements;
- Maintenance arrangements for on-site trees, hedgerows, and drainage features;
- Payment of a financial contribution towards the provision of refuse/recycling bins for the development.
- Financial contributions towards improvements to off-site indoor and outdoor sports facilities;
- Financial contribution towards the provision of new community hall facilities.
- Public Art

*Oxfordshire County Council*

- Education - Financial contribution
- Transport – Potential highway improvements.
- NHS Buckinghamshire, Oxfordshire and Berkshire West Integrated Care Board) contribution as necessary.

Other Matter - Minerals Safeguarding Area

9.65. The eastern part of the application site lies within a Minerals Safeguarding Area for Crushed Rock and Policy M8 of the Oxfordshire Minerals and Waste Local Plan – Core Strategy (2017). An objection has been raised by the Minerals and Waste Team stating that the eastern part of the application site lies within a Minerals Safeguarding Area for Crushed Rock and the proposal could result in more sensitive receptors which could sterilise the future working of the minerals. Residential properties. The erection of 10 dwellings could hinder the possible future working of

not only the mineral which would be sterilised by the development, but that as well of any buffer to mitigate from any potential effects from mineral extraction.

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

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

### *Economic*

10.2. The proposals would contribute to the Council's Housing Supply in the short term due to the size and duration of the project. The proposals would create construction jobs and also support facilities and employment in businesses, shops and services within the area. Given the overall number of dwellings being provided and the distances to shops and services these should also be afforded limited positive weight. Positive benefits.

10.3. The proposals would increase the level of housing in an unplanned manner beyond that of the Local Plan figure in Policy Villages 1 and Policy Villages 2 by a significant proportion and undermine the growth strategy for the District, which is a fundamental criterion for delivering economic growth. This is a negative economic consideration.

### *Social*

10.4. The delivery of homes across the district is an important positive material consideration in the planning balance. The proposals would also provide significant social benefit from play facilities proposed..... The provision of this would also be of community benefit to existing residents. Through s106 contributions the proposals would result in support for a range of community-based infrastructure in the area to a level expected by policy.

10.5. The proposals would impact on the identity and character of the area, the development appearing as an isolated development with no relationship with the village of Somerton. The development would also have an urbanising impact on the rural character of the site and its surroundings. Significant weight is attached to these effects.

10.6. The location of the site in the open countryside outside of a Category C village means that any future occupiers would be overly reliant on the use of the private motor vehicle, which would not constitute sustainable development. Substantial weight is attached to the site being an unsustainable location.

10.7. Whilst offers of the allotments and play area are noted, and would provide an element of positive contribution, on the negative side the contributions would not provide infrastructure to support the village itself beyond mitigation. This would also undermine the village identity and benefits surrounding the development.

10.7.1. This would be a significant negative social impact. The proposals would have a negative impact on the amenity to neighbouring residents particularly during the construction of

#### *Environmental*

10.8. Environmentally the proposals claim to offer a minimum of 10% biodiversity net gain, which would represent a significant benefit but only if delivered to the level described. The provision of allotments, and play area would also be given moderate weight as they are required to make the development acceptable and are not significantly above the expected policy levels.

10.9. The proposals would significantly change the character of the area and the relationship with the village causing harm to the character and identity of the area and village. The development in an unplanned manner, beyond conversion or infilling normally acceptable in Category C villages would be a significant negative impact on the village and environment.

10.10. The development would result in impacts on the area in terms of noise and disturbance as the development is completed. There would also be disruption through the implementation of the traffic mitigation. This could be minimised through the development and implementation of construction management plans. The location of the site outside of the village will also help to minimise the impact. This carries limited negative weight.

#### *Conclusion*

10.13 On the basis that the Council is not able to demonstrate a five-year supply of land of housing, paragraph 11d of the NPPF is engaged and the 'titled balance' applies.

10.14 The proposal seeks permission for up to 10 houses outside of a Category C Village, the proposal would result in harm to the landscape and would appear as an isolated development with no relationship with Somerton. It would result in an urbanising development with the layout and form of housing more typical of modern urban developments. It is considered that the identified harm to the character and appearance of the locality is considered to represent unsustainable development and would significantly and demonstrably outweigh the benefits of the scheme, and it is recommended that planning permission is refused, for the reason given below.

10.15 The provision of 10 dwellings would make a very limited contribution to the overall housing needs of the District along with the government's wider objective for 1.5 million homes. This application does not provide any affordable housing. The provision of 10 dwellings does not outweigh the concerns relating to the unsustainable and isolated location of the application site.

10.16 In addition, the development is located within a Minerals Safeguarding area and has the potential to sterilise future minerals extraction contrary to Policy M8 of the Oxfordshire Minerals and Waste Local Plan – Core Strategy (2017). The proposal includes the provision of a footpath link to the village, a play area/open space and allotments and any required highway alterations. However, there are a number of concerns about the provision and the benefit they will have plus this does not encompass a full S.106 package required in line with Policy INF1 of the CLP 2015.

<b>11. RECOMMENDATION</b>
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## RECOMMENDATION - **REFUSAL** FOR

### 1. THE REASONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE REASON(S) AS DEEMED NECESSARY) AND

The site is located outside the village of Somerton and within an area of open countryside. By reason of its location, proposed scale, appearance and layout of the housing, the proposal would result in an isolated cluster of housing and have an urbanising and detrimental impact on the landscape and the character and appearance of the countryside. The proposed development would therefore be contrary to Policies BSC1, ESD1, ESD13, ESD15, Villages 1 and Villages 2 of the Cherwell Local Plan 2011 - 2031 Part 1, saved Policies C28, C30 and C33 of the Cherwell Local Plan 1996 and Government guidance in the National Planning Policy Framework.

2. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement, the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure contributions required as a result of the development, and necessary to make the impacts of the development acceptable in planning terms. As such, the proposal is contrary to Policy INF1 of the Cherwell Local Plan 2011-2031, CDC's Planning Obligations SPD 2018, Policy BL9 of the Bloxham Neighbourhood Plan 2015 - 2031 and Government guidance within the National Planning Policy Framework.

3. The proposed dwellings would place more sensitive receptors than agricultural barns within the Mineral Safeguarded Area, it is considered that this could prevent or otherwise hinder the possible future working of not only the mineral which would be sterilised by the development, but that as well of any buffer to mitigate from any potential effects from mineral extraction. The proposal is therefore contrary to Policy M8 of the Oxfordshire Minerals and Waste Local Plan – Core Strategy (2017).

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