

Case Officer: Nat Stock

Applicant: Stoic Roofing and Construction and Abbeymill Homes

Proposal: Erection of 35 two storey dwelling houses, construction of access off Rye Hill, together with garaging, parking, open space with LAP, landscaping and all enabling works

Ward: Deddington

Councillors: Councillor Andrew McHugh, Councillor Eddie Reeves and Councillor Bryn Williams

Reason for Referral: Development of 10 or more dwellings

Expiry Date: 5 May 2023

Committee Date: 15 June 2023

**RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS AND S106
LEGAL AGREEMENT**

OFFICER UPDATE:

This item was deferred from the February Planning Committee following late comments from the applicants' legal advisor. The challenge raised was that the officer had not considered the application correctly in terms of the Council's housing land supply position and the position adopted in terms of the village allocation.

Following the deferment from the planning committee officers obtained separate legal opinion to review the committee report and the legal challenge raised by the applicant. This committee report has been updated taking into account the counsel opinion for the applicant and the counsel opinion provided to the Council.

In addition, the application proposals have been amended to include a community woodland, which has now been included within the red line boundary plan.

1. APPLICATION SITE AND LOCALITY

1.1. The application site is an area of open pasture on the western edge of the village of Milcombe and is currently used for livestock grazing. In terms of area the site measures approximately 2.2Ha and maintains an existing access driveway off Rye Hill Road to the north of the site. The site maintains strong boundaries on all sides with a mix of existing mature, semi-mature landscaping and rear garden fences to existing properties in Heath Close.

1.2. The boundary to the north is marked by mature trees and the route of the dismantled railway line. The contours along the northern section of the site along the Rye Hill edge rise to allow a bridge over this dismantled railway route. To the south the boundary to the site is marked by semi-mature landscaping along the edge of Main Road leading to Hook Norton.

- 1.3. To the immediate east the site is bound by the existing residential development of Heath Close. This is a small 1960's cul-de-sac of dwellings of a mix of two-storey and single storey bungalows with access directly off Rye Hill.
- 1.4. Within the site the area is essentially open pasture with a few trees and stable buildings. Views into the site are limited from outside the site other than from the rear bedroom windows of those properties which shared a common boundary along Heath Close.

2. CONSTRAINTS

- 2.1. The application site is positioned beyond the existing built-up limits of the village on the western side and therefore is allocated as an area of open countryside. The site in terms of the development area is essentially flat with Rye Hill to the north rising to bridge the route of the dismantled railway line.
- 2.2. Milcombe is a Category A village, and the site is located in a Conservation Target Area as the Swere Valley and Upper Stour.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. This proposal seeks planning permission for the development of the site for a new housing estate of 35 two-storey dwellings with associated access, open space, landscaping and infrastructure, and the inclusion of a new community woodland. The proposal would provide a mix of dwellings from detached, semi-detached and terrace form. In terms of size the proposal seeks a mix of dwellings from 2 bedroom through to 5-bedroom accommodation. The density of development at circa 20 dwellings per hectare is relatively low but appropriate for its context given its edge of settlement location. The design and form of the proposed properties are in keeping with the character and plot density of this part of Milcombe.
- 3.2. Access would be maintained off Rye Hill with an improved access junction and a single access road leading through the site. The access road would be framed by properties on both sides and the access will allow for connections with existing pedestrian routes.

4. RELEVANT PLANNING HISTORY

- 4.1. There is no planning history directly relevant to the proposal.

5. PRE-APPLICATION DISCUSSIONS

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

20/03290/PREAPP: proposed residential development of 47 x no dwellings comprising of detached, semi-detached houses and apartments, public open space (POS) around retained central group of trees plus Local Area of Play (LAP), at land r/o12 Heath Close, Milcombe, and south of the Dismantled Railway. The response was negative in that the site proposed a large amount of housing would conflict with the adopted policies in the Local Plan. It is therefore considered that the principle of this development is unacceptable, and that this harm outweighs the lack of a five-year housing land supply and the benefits that the proposal would bring in terms of additional housing including affordable housing.

22/00382/PREAPP: proposed residential development of 18 x 2 storey dwellings (including affordable) with new access garaging parking and landscaping. Overall, it was considered that, given the Council's current housing land supply position, the scale of the proposed development, and that Milcombe benefits from a convenience store in addition to a public house, the conflict with the Council's housing strategy and the impact on the character and appearance of the countryside through the development of greenfield land would, on balance, not outweigh the proposal's benefits. Therefore, a future application for this quantum of development in this location would be considered favourably while the Council's housing land supply position remains as it is.

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 **12 May 2023**, although comments received after this date and before finalising this report have also been taken into account.

6.2. The comments raised by third parties are summarised as follows:

- Principle of development - Development should be on a brown field site not open green field; loss of green field space; Agricultural land should not be built on; Question the need for this development and additional housing; Site is not within a sustainable location in terms of access to many amenities as suggested by the applicant
- Design/Layout - Question the design of the dwellings to be a mix of stone and red brick; Concerned that the element of affordable housing is not integrated into the overall site but allocated an area within the development; Question the position of the affordable housing close to the boundaries with existing dwellings in Heath Close
- Adverse impact on heritage assets on and surrounding the site
- Development would result in an adverse impact on the local landscape character, entire site is within the area of the Swere and Upper Stour CTA, and the adjacent railway track is an area that is protected under NERC S41.
- Impact on infrastructure - More development in the village which has no services / amenities; schools are at capacity
- Impact on highway safety - Question whether Rye Hill and surrounding area can cope with much more building work and associated heavy vehicle traffic; concern over highway safety due to access point onto Rye Hill and speed of traffic using Rye Hill
- Impact on drainage - Site area known to be marshy and wet with areas of pooling water following heavy rain and drainage of the site is poor; Concern over surface water and foul water drainage throughout the village, development will make this worse
- Adverse impact on local ecology such as Great Crested Newts

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

7. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. MILCOMBE PARISH COUNCIL: **Revised Comments: Objection.** Not within the confines of Milcombe. Infrastructure, and it is likely that Milcombe will no longer be a Cat A village. Lack of doctors, dentist, primary school, secondary school places. More risk of flooding. Milcombe has already seen sufficient growth.
- 7.3. **Original Comments: No objection subject to changes.** *location of the LAP unacceptable alongside major road with no hedging to protect it.* Question details of the revised drainage report as site known to be wet, marshy and prone to flooding. Ongoing maintenance of drainage and planting needs to be tied to a legal requirement for this work to be completed, in the form of planning conditions. *Concerned that the development needs to ensure that the nature needs of great crested newts, hedgehogs, bats and birds are taken into consideration.*
- 7.4. Do not agree to use of red brick which is out of character to village as a whole, a lighter coloured brick more in keeping with the surrounding houses in Heath Close and Oak Farm phase 1. Prefer slightly fewer trees planted within the road access areas and tree outside No 32 which should be changed to a parking space. Remove external footpath extending as far as Heath Close. No 34 does not have any access from the back garden for the removal of waste bins, etc. all houses should have rear access to the back gardens.
- 7.5. *Would like to see traffic calming measures to control the speed of traffic coming down Rye Hill. There are the ongoing issues with width of the road between the Horse and Groom pub which is aggravated by the vehicles that park there. Concern regarding additional traffic strain that this development will put on an already overloaded main road through the village.*

OTHER CONSULTEES

- 7.6. OCC HIGHWAYS: **No objection** following amended details and subject to S106 contributions, an obligation to enter into a S278 agreement, planning conditions, and informative.
- 7.7. OCC ARCHAEOLOGY: **Comment.** The site has been subject to an archaeological evaluation; the results of this evaluation will need to be fully recorded through a staged programme of archaeological investigation. LEAD LOCAL FLOOD AUTHORITY (LLFA): **No objection** following receipt of amended details and subject to conditions.
- 7.8. OCC EDUCATION: **No objections** subject to S106 contribution towards primary education and special education needs.
- 7.9. CDC Land Drainage: **No objections.**
- 7.10. THAMES WATER: **No objection** subject to conditions.
- 7.11. ENVIRONMENT AGENCY: **No comments** to make.

- 7.12. CDC ENVIRONMENTAL PROTECTION OFFICER: **No objections** subject to conditions.
- 7.13. CDC ARBORICULTURAL OFFICER: **No objection** subject to conditions.
- 7.14. BERKSHIRE, BUCKINGHAMSHIRE AND OXFORDSHIRE WILDLIFE TRUST (BBOWT): **Objection**. Application does not provide adequate evidence of a net gain in biodiversity and does not provide evidence that it will help achieve the aims of the Conservation Target Area.
- Officer Comment: Following receipt of amended ecology report and a biodiversity enhancement scheme BBOT were reconsulted, but no further comments were received. The comments / objection therefore relates to the initial report and not the additional information.*
- 7.15. CDC ECOLOGY: **Comment**. Following submission of amended information in the form of a Biodiversity Impact Assessment which shows that a net gain for biodiversity on site is possible and this is acceptable. This should form part of a full LEMP showing how the various created and enhanced habitats will be managed ongoing to ensure the conditions proposed are met with finalised landscape plans.
- 7.16. NATURE SPACE: **No objections** subject to conditions.
- 7.17. CRIME PREVENTION DESIGN ADVISOR – THAMES VALLEY POLICE: **Objection**. Request a number of design changes to the site and further information requested.
- 7.18. CDC RECREATION & LEISURE: **No objections** subject to S106.
- 7.19. BUCKINGHAMSHIRE, OXFORDSHIRE AND BERKSHIRE WEST INTEGRATED CARE BOARD: **No objections** subject to S106 contribution.
- 7.20. CDC STRATEGIC HOUSING OFFICER: **No objection** subject to mix of affordable housing as part of a S106.
- 7.21. CDC LANDSCAPE OFFICER: No comments received.

8. RELEVANT PLANNING POLICY AND GUIDANCE

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

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

- PSD1: Presumption in Favour of Sustainable Development
- SLE4: Improved Transport and Connections
- BSC1: District Wide Housing Distribution
- BSC2: The Effective and Efficient Use of Land – Brownfield land and Housing Density
- BSC4: Housing Mix

- BSC10: Open Space, Outdoor Sport and Recreation Provision
- BSC11: Local Standards of Provision – Outdoor Recreation
- BSC12: Indoor Sport, Recreation and Community Facilities
- ESD1: Mitigating and Adapting to Climate Change
- ESD2: Energy Hierarchy and Allowable Solutions
- ESD3: Sustainable Construction
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems (SuDs)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment
- Villages 1: Village Categorisation
- Villages 2: Distribution Growth Across the Rural Areas
- INF1: Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

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

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- 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)
- Developer Contributions SPD (February 2018)
- Infrastructure Delivery Plan (IDP) Update (December 2017)
- Countryside Design Summary (1998)
- Cherwell Design Guide SPD (July 2018)
- Oxfordshire Wildlife & Landscape Study 2004
- Oxfordshire County Council: Local Transport Plan 4 (2015-2031)
- Cherwell District Council Housing & Economic Land Availability Assessment (February 2018)
- Housing and Economic Needs Assessment (December 2022)

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

- Highway impact
- Residential amenity
- Drainage
- Heritage
- Ecology impact
- Sustainable construction
- S106

Principle of Development

Policy Context

- 9.2. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.

Development Plan

- 9.3. The Development Plan for this area comprises the adopted Cherwell Local Plan 2011-2031 Part 1 ('CLP 2015') and the saved policies of the Cherwell Local Plan 1996.
- 9.4. Policy PSD1 of the CLP 2015 embeds a proactive approach to considering development proposals to reflect the presumption in favour of sustainable development. It states, '*The Council will always work proactively with applicants to jointly find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area*'.
- 9.5. The CLP 2015 seeks to allocate sufficient land to meet district-wide housing needs. The Plan states, '*The most sustainable locations for growth in the District are considered to be Banbury, Bicester and the larger villages as identified in Policies Villages 1 and Villages 2 as these settlements have a range of services and facilities, reducing the need to travel by car*'.
- 9.6. Policy BSC1 states that Cherwell District will deliver a wide choice of high quality homes by providing for 22,840 additional dwellings between 1 April 2011 and 31 March 2031. 1,106 completions were recorded between 2011 and 2014 leaving 21,734 homes to be provided between 2014 and 2031.
- 9.7. Paragraph E.10 of the Plan states, '*Housing delivery will be monitored to ensure that the projected housing delivery is achieved. The District is required by the NPPF and the NPPG (to maintain a continuous five year supply of deliverable (available, suitable and achievable) sites as well as meeting its overall housing requirement*'.
- 9.8. Paragraph E.19 of the Local Plan states, "*If the supply of deliverable housing land drops to five years or below and where the Council is unable to rectify this within the next monitoring year there may be a need for the early release of sites identified within this strategy or the release of additional land. This will be informed by annual reviews of the Strategic Housing Land Availability*".
- 9.9. The Housing and Economic Needs Assessment (HENA) was published in December 2022 and is used to assist the Council in the preparation of their Local Plans as part of the Local Plan review. The HENA is intended to provide an integrated evidence

base to help identify the appropriate level of and distributions of housing and employment over the period to 2034.

- 9.10. The Council's latest assessment of housing land availability is its 'HELAA' published in 2018. This is a technical rather than a policy document but provides assessments of potentially deliverable or developable sites; principally to inform plan-making. The application site was reviewed in the HELAA as site reference HELAA184. The accompanying HELAA report confirmed that this site is potentially suitable for residential development if the Council requires additional development land outside the built-up area of Milcombe. The site could accommodate 55 dwellings based on 25 dph on 2.2 ha which takes into account the density of the surrounding developments. The site is well screened when approaching the village from the west due to mature trees and hedges along the dismantled railway line.
- 9.11. Policy Villages 1 of the CLP 2015 provides a framework for housing development in the rural areas of the district and groups villages into three separate categories (A, B and C). The categorisation of villages was informed by a defined range of sustainability criteria (CLP 2015 para C.255). Milcombe is a Category A village.
- 9.12. Policy Villages 2 of the CLP 2015 states, '*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, '*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*'.
- 9.13. Policy Villages 2 states that in identifying and considering sites, particular regard will be given to the following criteria:
- i. *'Whether the land has been previously developed land or is of less environmental value*;
 - ii. *'Whether significant adverse impact on heritage and wildlife assets could be avoided*;
 - iii. *'Whether development would contribute in enhancing the built environment*;
 - iv. *'Whether best and most versatile agricultural land could be avoided*;
 - v. *'Whether significant adverse landscape and visual impacts could be avoided*;
 - vi. *'Whether satisfactory vehicular and pedestrian access/egress could be provided*;
 - vii. *'Whether the site is well located to services and facilities*;
 - viii. *'Whether necessary infrastructure could be provided*;
 - ix. *'Whether land considered for allocation is deliverable now or whether there is a reasonable prospect that it could be developed within the plan period*;
 - x. *'Whether land the subject of an application for planning permission could be delivered within the next five years*;
 - xi. *'Whether development would have an adverse impact on flood risk*'.

National Planning Policy Framework

- 9.14. A key material consideration is the National Planning Policy Framework (NPPF) which sets out the Government's planning policy for England. The NPPF is supported by Planning Practice Guidance (PPG).

- 9.15. The NPPF explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- 9.16. So that sustainable development is pursued in a positive way, the NPPF includes a 'presumption in favour of sustainable development' (para. 10). Paragraph 11 states that applying the presumption to decision-making means:
- approving development proposals that accord with an up-to-date development plan without delay; or
 - where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites), granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed;
 - ii. or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 9.17. The position in which the most important policies are considered to be out-of-date because of the absence of a five-year housing land supply is often referred to as the 'tilted balance'.
- 9.18. Paragraph 12 advises, *'The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.'*
- 9.19. Section 5 of the NPPF covers the issue of delivering a sufficient supply of homes and states, *'To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay'*.
- 9.20. Paragraph 74 highlights the need for Local Planning Authorities (LPAs) to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old (unless these strategic policies have been reviewed and found not to require updating as in Cherwell's case).

Housing Land Supply

- 9.21. 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.
- 9.22. The use of the standard method has the effect of reducing the annualised requirement from 1,142 dpa to 742 dpa for the purposes of calculating the land supply and consequently Cherwell District Council is able to demonstrate a 5.4 year supply. However, whilst it is for the Local Plan Review to set the revised requirement, the delivery of homes across the district remains an important material consideration in the planning balance.

Assessment

- 9.23. 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 afforded full weight. However, the delivery of homes across the district remains an important material consideration in the planning balance.
- 9.24. Policy Villages 1 of the CLP 2015 designates Milcombe 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 an undeveloped green field site that, given its physical and visual relationship to the existing built form, is outside of the existing built form of Milcombe village and therefore within the countryside. The proposal to build on greenfield land would have an urbanising impact, though that impact would be relatively localised. The site is bounded by existing residential properties to the east and mature landscaping to the north, south and the route of the dismantled railway with its mature landscaping buffer acting as a significant western boundary.
- 9.26. The assessment in the 2018 HELAA is material albeit of limited weight: The purpose the use of a HELAA is to inform assessments of housing land supply and although that is an important evidence source to inform plan making it does not in itself determine whether a site should be allocated for development; it is the role of the HELAA to provide information on the range of sites which are available to meet need but it is for the development plan to determine which of the sites are the most suitable to meet those needs.

- 9.27. Milcombe is identified in the Local Plan as one of 23 Category A villages intended to provide 750 homes from 2014 to 2031 (Policy Villages 2).
- 9.28. Currently, 703 dwellings have now been completed at Category A villages, with 101 under construction, and 270 dwellings with planning permission on sites not yet started.
- 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 PV2. At the time of the Tappers Farm decision, 271 dwellings had been delivered at Category A villages under PV2, with a further 425 under construction. 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, 703 dwellings have now been delivered at Category A villages under PV2 and a further 101 dwellings are under construction, with another 270 with the benefit of planning permission that has not started. Therefore, the total number of dwellings delivered under PV2 will soon exceed 750 set out in the policy.
- 9.31. Applying the conclusions of the Launton and Tappers Farm inspectors, it is considered that that point may soon be reached where planning harm could be caused to the overall locational strategy of new housing in the district through further permissions at unsustainable locations.
- 9.32. Due to the above housing figures, scrutiny is required to be given to new proposals to ensure no harm would be carried out to the Category A villages, as the housing target will soon be reached.

Policy Villages 2 Criteria

- 9.33. The applicable criteria of Policy Villages 2 are provided at paragraph 9.13 above. The land has not previously been developed. The site is not within a designated landscape and does not have any statutory or local environmental designations so could be said to be of lesser environmental value. The Natural England maps appear to show the land as poor quality and therefore the site is not concluded to be the best or most versatile land.
- 9.34. In this instance, the site is adjacent to a Category A village, which has a convenience store, and a public house. The village is also served by an hourly bus service (Chipping Norton to Banbury). On balance, the site is therefore considered to be within a sustainable location, albeit not as large as other Category A villages such as Bloxham, Hook Norton or Deddington.
- 9.35. It is noted that appeals have been dismissed in relation to sites at the smaller Category A villages: Weston on the Green (APP/C3105/W/16/3158925 and APP/C3105/W/19/3233293), Chesterton (APP/C3105/W/15/3130576), Finmere (APP/C3105/W/17/3169168) and Fringford (APP/C3105/W/18/3204920). In each of the aforesaid cases the Planning Inspectors gave significant weight to the sustainability of the settlement and the appropriateness of growth in these locations

under Policy Villages 2 in coming to their decisions. Milcombe has a similar population to Fringford, Wroxton and Weston on the Green; however, they do have a different service offer to Milcombe. None of these Inspectors undertook a comparative exercise – they weighed the sustainability of the settlement subject of the appeal with which they were dealing. In the same way, officers have not compared Milcombe to other settlements in assessing its sustainability credentials, but instead made an assessment of the settlement in relation to available amenities.

- 9.36. There are benefits of the additional housing including the provision of affordable housing in the area, and the site is relatively visually contained (see later in this report) the creation of a new community woodland, as well as a betterment to the existing residents through improved drainage. Regard is had to the relative size of the development proposed and to the positive conclusions of the 2018 HELAA.

Conclusion

- 9.37. The latest housing supply figure for the district is calculated at 5.4 years. 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. The housing strategy in the Cherwell Local Plan seeks to distribute new housing to the most sustainable locations. Whilst the application proposes dwellings at Category A village with limited facilities, and is not a main rural or urban centre, Policy Villages 2 consider that these settlements represent sustainable development, subject to complying with the criteria of that policy. In this case, whilst the 750 target of housing in these Category A villages will soon be exceeded, 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. Furthermore, the compliance with other parts of Policy Villages 2 will be a key consideration of the assessment of this application, as discussed below.

DESIGN AND IMPACT ON THE CHARACTER OF THE AREA

Policy

- 9.38. Policy ESD15 of the CLP 2015 provides guidance as to the assessment of development and its impact upon the character of the built and historic environment. It seeks to secure development that *would complement and enhance the character of its context through sensitive siting, layout and high-quality design meeting high design standards and complementing any nearby heritage assets.*
- 9.39. BSC2 of the CLP 2015 states that *new housing should be provided on net development areas at a density of at least 30 dwellings per hectare unless there are justifiable reasons to lower the density.* The Council's Design Guide seeks to ensure that new development responds to the traditional settlement pattern and character of a village. This includes the use of continuous building forms along principal routes and the use of traditional building materials and detailing and form that respond to the local vernacular.
- 9.40. Saved Policies C28 and C30 of the CLP 1996 exercise control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context. New housing development should be compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.

9.41. Section 12 of the NPPF is clear that good design is a fundamental to what the planning and development process should achieve. Paragraph 130 of the NPPF states that planning decisions should ensure that developments:

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

9.42. With regards to this current proposal, it is confirmed that the density of the development is at 20 dwellings per hectare which although lower than the requirements of Policy BSC2 is more a line to the density of the adjoining residential development to the east and hence more in character to the site surroundings.

Assessment

9.43. The layout of the proposal shows a single access road leading into the site with dwellings on either side fronting onto the access road. With the dwellings fronting onto the estate road the development is shown as a perimeter block design which allows for defensible space to the scheme and provide an appropriate layout form.

9.44. Concerns have been raised by the Crime Prevention Officer at Thames Valley Police regarding the design / layout of the site. Key concerns raised include the lack of gates to access routes to the rear / side of dwellings on the site along with the concern that no information is provided in terms of boundary treatment to the dwellings.

9.45. The submitted layout plan does show some gates to the rear access routes and this could be improved with the introduction of gates as the entrance to the few access routes serving the rear of some of the dwellings. In addition, although showing an indication of the boundary lines between the various plots the layout plan does not show the type of boundary treatment to be used in the development. However, this type of detail could be secured by a condition attached to any permission given.

9.46. In terms of house design the development would be all two-storey high dwellings with a mix of detached, semi-detached and terrace form. The proposals would provide an acceptable and high standard of street scene within the site and would follow the height level of the adjoining residential development in Heath Close to the east as well as the relatively new residential development to the north known as Oak Farm Drive.

9.47. With regards to facing materials, ironstone is proposed for parts of the development, namely at the entrance and along parts of the main access road and brick is proposed for the remainder of the development. The distribution is not appropriate, e.g. pepper potting of materials. Several of the dwellings are proposed in split materials, i.e. a mix of stone and brick. The Cherwell Residential Design Guide seeks a greater proportion (60%) of ironstone than is shown here and states that split materials are not acceptable. Again, these changes can be secured by a condition of any permission given.

9.48. The applicant suggests that the brick would be red brick to follow the material, palette used on the new development to the north. The Parish Council has raised concern over this approach commenting that the red brick is not characteristic of Milcombe

other than on the new development opposite this site. The Parish Council would prefer to see a lighter brick along with the ironstone which would reflect the lighter style of materials used in Milcombe. Although it is accepted that red brick is limited in terms of its presence in the village and namely on the new development opposite the use of a pale brick alongside that of the ironstone could prove difficult to achieve in a satisfactory way across the site and local bricks are generally a strong red. Notwithstanding, facing materials would be secured by a condition attached to any permission for this development.

- 9.49. Due to the scale of the development the scheme would need to provide a play area in the form of a LAP as required under Policy BSC11 of the 2015 CLP. Under the proposals submitted in October 2022, the layout provides for a LAP at the entrance to the site in addition to the retention of the group of mature trees in the central / eastern edge of the site. Concern on this location for the LAP had been expressed by the Parish Council as well as the Crime Prevention Officer – Thames Valley Police. Both raised a concern that the proposed LAP located at the entrance to the site was too close to a major road and hence a safety concern. As an alternative the Parish Council suggested that the LAP should be located in the central part of the site although this would be a concern to the crime prevention officer in that this would locate the LAP close to new dwellings and hence result in a disturbance to the residents.
- 9.50. Officers agree with the Parish Council and TVP that a central LAP location would be better for the development and although initial concerns had been expressed on the tight nature of the LAP with the internal roads, the applicant has moved plots to allow a larger area in the centre of the site to allow for the LAP to be located as requested by the Parish Council.
- 9.51. The concerns expressed by the Crime Prevention Officer are acknowledged. However, the location of the LAP would be self-policed by the plots fronting onto the area of the LAP and hence reduce the potential for problems to the local residents whose children would benefit from the facility. The additional area of open space to the rear of the mature trees in the central / part of the site would also allow for play space. For these reasons it is considered that the level of open space / play area is in accordance with the adopted policy. In addition to the on-site play areas and open space since the last committee meeting the applicant has included the area of the existing woodland tract as a community woodland which will be publicly accessible and can be placed within the control of the proposed management company for the site. It extends to an area of 0.23ha and whilst it hasn't been previously managed, the applicant is willing to submit a Woodland Management Plan (secured with or without condition) to ensure it is managed to the benefit of both biodiversity as well as the local community. This is a significant area of public space which would enhance the edge of the development as well as allow public access for walks etc beyond the necessary provision for Policy compliance.

HIGHWAYS IMPACT

- 9.52. Paragraph 110 of the NPPF states that in assessing specific applications for development, it should be ensured that:
- a) *appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
 - b) *safe and suitable access to the site can be achieved for all users; and*

- c) *any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*
- 9.53. In addition, paragraph 111 highlights that *development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*
- 9.54. This application seeks to retain an access point off Rye Hill although in a different / improved form via a new priority 'T' junction. Following on from onsite traffic surveys revised visibility splays of 2.4m x 167m would be provided to the left and 2.4m x 48.4m to the right as required on egress from the site and all in line with Manual for Streets (MfS) guidance and the Design Manual for Roads and Bridges. In addition to this and as outlined in the paragraphs above, subject to a Traffic Regulation Order the change in speed limit currently located along the site's frontage would be relocated to the west of the site in order to keep reduced speeds on approach to the village. All of which would help with the highway safety of the development and the revised access arrangements into the site.
- 9.55. Once within the site for the first 152m into the site (from the site access to dwelling 25 and 33) the main access road comprises a 5.5m wide carriageway with 2m wide segregated footways either side. After 152m, the main road provides turning heads for vehicles and access to dwellings 25 and 33. Beyond the main access road, shared surfaces provide access to dwellings 19-24, 34-35, associated car parking and a waste collection point (serves dwelling 19-24). After the first 94m into the site the access to the remaining dwellings would be provided via a junction off the main access road and the access road reduces to 5m but maintains 2m footways. Beyond the access road, the dwellings would be served by shared surfaces providing access.
- 9.56. The traffic statement submitted with the application highlights that the development is expected to generate relatively moderate levels of traffic at peak times and over the course of the day. Clearly the development would generate a greater level of traffic than the current arrangement, which only serves the site as a paddock, the associated stables and the rear access one of the dwellings in Heath Close. Notwithstanding this, in assessing the impact of the development in terms of traffic the transport statement highlights that, once distributed onto the wider highway network, the impact of the estimated development generated trips would be imperceptible.
- 9.57. Overall, officers agree that the residual cumulative impact of the development on the highway network is not considered to be severe in the context of paragraph 111 of the NPPF. This reflects the advice of the Local Highway Authority, which has raised no objections to the scheme from a highway safety point of view following receipt of further information.

RESIDENTIAL AMENITY

- 9.58. Saved Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. These provisions are echoed in Policy ESD15 of the CLP 2015 which states amongst other things that, *new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space.*
- 9.59. In this particular instance the eastern boundary to the site is marked by the rear gardens of the existing properties in Heath Close. The design of the proposal allows for the new dwellings to back onto these existing properties with new gardens and the separation distances between the new and existing exceed the requirements of the

Cherwell Residential Design Guide. This would ensure that any loss of privacy, loss of outlook and / or light is kept to a minimum.

- 9.60. In terms of within the development itself, the separation distances and plot to plot relationships are generally acceptable. There would be some overlooking of Plot 14 by Plot 6, and some of overlooking from Plots 15 to Plot 30 and in these cases tree planting would be necessary to mitigate the impact. The separation distance between Plots 19-24 and Plots 27-30 is acceptable but in these cases and others permitted development rights would need to be removed in order for future living conditions to be safeguarded. In the case of Plot 25 to Plot 26 the separation distance is substandard and the southern gable end of Plot 26 would need to be blank whereas it currently contains a first floor window. This would need to be addressed through the relocation of the window to the eastern elevation of the gable (which would also provide additional street surveillance).
- 9.61. Given the above, it is considered that subject to amendments potentially secured through conditions of any permission given the development would be made acceptable in terms of residential amenity, both for existing residents neighbouring the site and future occupiers.

DRAINAGE

- 9.62. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 163 of the NPPF states that *when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*
- a) *within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
 - b) *the development is appropriately flood resistant and resilient;*
 - c) *it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
 - d) *any residual risk can be safely managed; and*
 - e) *safe access and escape routes are included where appropriate, as part of an agreed emergency plan.*
- 9.63. Paragraph 165 of the NPPF continues by stating that *major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:*
- a) *take account of advice from the lead local flood authority;*
 - b) *have appropriate proposed minimum operational standards;*
 - c) *have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and*
 - d) *where possible, provide multifunctional benefits.*
- 9.64. Turning to the Development Plan, Policy ESD6 of the CLP 2015 essentially replicates national policy in the NPPF with respect to assessing and managing flood risk. In

short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding.

- 9.65. Policy ESD7 of the CLP 2015 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District.
- 9.66. The current situation is that the site is located within a flood zone 1 which is land which has less than 1 in 1,000 annual probability of river flooding. Notwithstanding this, concern has been expressed by the Parish Council and some residents that the site is prone to flooding during periods of heavy rain. In support of this a number of photos of the site with areas of surface water have also been provided. Upon viewing the site following heavy rain officers note that there are areas of the site which become waterlogged, and this is also supported by the Environment Agency mapping showing that the eastern edge of the site is prone to medium flooding from surface water.
- 9.67. In response to this issue the applicant has advised in the flood risk assessment that, providing the levels are set to avoid low-lying areas and an effective drainage system is provided for the proposed development, the flood risk from surface water would be reduced to very low for the entire site area. In extreme storm events, exceeding the design storm event for the surface water drainage system, the site may experience flooding for short periods of time. The site levels would be set to direct water away from the buildings, reducing further the flood risk from surface water.
- 9.68. With regards to the drainage system across the site the applicant has confirmed that the site currently discharges greenfield run-off rates and volumes to the local ditch that runs alongside its south boundary. Therefore, a drainage system can be designed to discharge greenfield run-off rates from the site to the ditch, mimicking existing conditions. The site owner is also the riparian owner and therefore owns the land up to the centre of the ditch. As such, access to the ditch for the proposed works is available and no consent is needed to discharge into the ditch. The SUDS can be used for surface water storage and the development proposals suggest that permeable pavements and swales can be accommodated on site. In response to the concerns raised by objectors that the site and existing rear gardens flood the applicant has confirmed that the drainage strategy would significantly reduce the run-off from the site to the drainage ditch. As such the proposed works would improve the local conditions in comparison to the existing situation. The applicant continues by stating that the proposed drainage system would reduce run-off rates by 63 % for the 1 in 30 year and 73% for the 1 in 100 year compared to the existing greenfield runoff rates. This would reduce flood risk in the local area which has a recorded history of flooding from surface water.
- 9.69. The proposed roads would be adopted and would be designed to adoptable standards and surface water from the roads would discharge to the proposed SUDS. The opportunity of utilising a pond or deep swale on site was assessed and the topography of the site shows that the pond can be located in the south and the proposed site layout shows that the southwest part of the site would be the preferred location. However, preliminary calculation shows that the pond must be 1.5m deep below the lowest invert level. This means that the pond would be excessively deep with steep banks due to the limited available space on site. Therefore, a below ground attenuation tank has been considered instead, while a swale is provided to accommodate overflows during exceedance and located along the western edge of the site close to the route of the dismantled railway line.
- 9.70. Following an initial objection to the scheme from the LLFA, the applicant has revised the drainage details with a detailed drainage strategy within which the applicant has

confirmed that a SuDS scheme would be incorporated into the drainage of the site. This would ensure that the development would not result in any flooding of the site nor any flood risk to adjoining land parcels within the area. The LLFA has considered the revised details and confirmed no objections subject to conditions. For this reason, it is considered that the drainage of the site is acceptable and would result in a betterment to the existing situation.

HERITAGE

- 9.71. Section 66(1) of the Planning (Listed Building & Conservation Areas) Act 1990 states that in granting planning permission for development which affects a listed building or its setting, 'a Local Planning Authority must have 'special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 9.72. Paragraph 199 of the NPPF directs that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Policy ESD15 of the CLP 2015 echoes this guidance.
- 9.73. Although the site is not recorded as being within a Conservation Area nor adjoining a listed building, the County Archaeologist has requested that in accordance with the National Planning Policy Framework (NPPF 2021, paragraph 189), prior to the determination of any planning application for this site the applicant should be responsible for the implementation of an archaeological field evaluation, on the basis of the submitted archaeological desk-based assessment which has outlined the archaeological potential of the site. The site lies in an area of archaeological interest and potential, located within proximity of a deserted medieval village (PRN 10785). Archaeological investigations immediately north of the proposal site recorded medieval settlement evidence (EOX 3129), and a further archaeological evaluation 100m northeast of the proposal site recorded a number of ditches which are likely field boundaries (EOX 6081). This settlement and agricultural activity could likely continue into the development area, and historic mapping has shown that the site has remained undeveloped, suggesting any archaeological remains could survive on the site.
- 9.74. In response to this request the applicant undertook an archaeological field evaluation, which has been submitted to the Council for review. The County Archaeologist is content with the field evaluation, and as a result recommends a number of conditions to be imposed.

ECOLOGY IMPACT

Legislative context

- 9.75. 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.

- 9.76. 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.
- 9.77. 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.
- 9.78. 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.
- 9.79. 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

- 9.80. 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.
- 9.81. 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.

- 9.82. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 9.83. 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.
- 9.84. 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.
- 9.85. 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.
- 9.86. The Planning Practice Guidance dated 2014 postdates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities (LPAs) should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Assessment

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

It also states that LPAs can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
 - an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')
- 9.88. This application is supported by a detailed ecology assessment as well as a further Biodiversity Net Gain Assessment together with supporting details and calculations of a net gain in biodiversity across the site. The ecology assessment highlights that the semi-improved grassland of the site is generally species-poor though contains populations of plants such as cuckooflower and field woodrush that are associated with more diverse grassland communities such as lowland meadows. Other habitats include small areas of amenity grassland, ruderal vegetation and planted trees and shrubs, with hawthorn dominated scrub on the north and west edges. An overgrown

hedgerow along the south boundary is also dominated by hawthorn but contains other shrubs at low frequency and a small number of mostly semi-mature ash and oak standards.

- 9.89. The ecology assessment confirms that there was no evidence of bats in the existing stable and garage buildings on the site and had negligible potential to support roosting bats with few potential roosting opportunities due to their flat roofs and the timber construction of the stables. The report also confirmed that no evidence of nesting birds was found in the buildings, but a check for nesting birds will need to be undertaken prior to demolition work commencing and the clearance of any woody vegetation, which should ideally avoid the bird nesting season. In addition to this the report also advised that there was no evidence of badgers was found, and no reptiles and amphibians were recorded. The horse grazed grassland of the site would provide relatively poor terrestrial habitat for reptiles and amphibians, though the adjacent woodland and scrub could support these species. The site is on the boundary of red and amber impact zones for great crested newts identified as part of the South Midlands District Licensing Scheme, which means great crested newts are likely to be present in the area, though there are no records within 500m of the site.
- 9.90. Turning to the Biodiversity Net Gain Assessment, the calculations show that the development would ensure that across the site there would be a net gain in terms of biodiversity. This includes a 11.69% gain in terms of habitat and a 55.34% gain in terms of hedgerow habitat. In considering this information the Council's Ecology Officer has confirmed that the site can provide a net gain in biodiversity which is considered acceptable and should be captured by a condition. Members will note that there is still outstanding objection from Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust; further consultation was carried out following receipt of the amended ecology information, but no further comments were received. It is considered that based upon the confirmation from the Council's own Ecology Officer that the details provided are acceptable ensures that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged,

SUSTAINABLE CONSTRUCTION

- 9.91. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 150 states that new development should be planned for in ways that: *a) avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure; and b) can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards.* Paragraph 151 continues by stating, amongst other things, that *in order to help increase the use and supply of renewable and low carbon energy and heat, plans should: c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.*

Development Plan

- 9.92. Policy ESD1 of the CLP 2015 covers the issue of Mitigating and Adapting to Climate Change and includes criteria under which application for new development will be considered. Included in the criteria is the requirement that development will incorporate suitable adaptation measures to ensure that development is more resilient to climate change impacts. These requirements will include the consideration of,

taking into account the known physical and environmental constraints when identifying locations for development. Demonstration of design approaches that are resilient to climate change impacts including the use of passive solar design for heating and cooling. Minimising the risk of flooding and making use of sustainable drainage methods and reducing the effects of development on the microclimate (through the provision of green infrastructure including open space and water, planting, and green roofs).

- 9.93. With regards to Policy ESD 2, this covers the area of Energy Hierarchy and Allowable Solutions. This policy seeks to achieve carbon emissions reductions, where the Council will promote an 'energy hierarchy' as follows: *Reducing energy use, in particular by the use of sustainable design and construction measures. Supplying energy efficiently and giving priority to decentralised energy supply. Making use of renewable energy Making use of allowable solutions.* Any new development will be expected to take these points into account and address the energy needs of the development.
- 9.94. Policy ESD 3 covers the issue of Sustainable Construction and states amongst other things that *all new residential development will be expected to incorporate sustainable design and construction technology to achieve zero carbon development through a combination of fabric energy efficiency, carbon compliance and allowable solutions in line with Government policy. The Policy continues by stating that Cherwell District is in an area of water stress and as such the Council will seek a higher level of water efficiency than required in the Building Regulations, with developments achieving a limit of 110 litres/person/day. The Policy continues by stating that all development proposals will be encouraged to reflect high quality design and high environmental standards, demonstrating sustainable construction methods including but not limited to: Minimising both energy demands and energy loss. Maximising passive solar lighting and natural ventilation. Maximising resource efficiency Incorporating the use of recycled and energy efficient materials. Incorporating the use of locally sourced building materials. Reducing waste and pollution and making adequate provision for the recycling of waste. Making use of sustainable drainage methods. Reducing the impact on the external environment and maximising opportunities for cooling and shading (by the provision of open space and water, planting, and green roofs, for example); and making use of the embodied energy within buildings wherever possible and re-using materials where proposals involve demolition or redevelopment.*

Assessment

- 9.95. This application is supported by a detailed energy and sustainability report. This report confirms that the development proposed will adopt the following key features:
- Fabric specification improved significantly from Part L 2013 standards in order to achieve the new Part L 2021 requirements;
 - Responsible sourcing of materials and disposal of construction waste;
 - 100% low energy light fittings;
 - Provision of Air Source Heat Pumps to all dwellings;
 - Use of Waste Water Heat Recovery to reduce energy demand and Carbon emissions;
 - The provision of connection points for EV charging points to all parking spaces adjacent to a dwelling;

- Potable water use designed to be 110 litres per person per day, equivalent to Code for Sustainable Homes level 4.

9.96. The details submitted are considered to comply with the requirements of the Policies covering the sustainability features required across new development.

S106

9.97. Paragraph 54 of the NPPF states that *local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Paragraph 56 continues by stating that planning obligations must only be sought where they meet all of the following tests:*

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

b) directly related to the development; and

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

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

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

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

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

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

9.102. The policy requirement is for 35% affordable housing as set out in Policy BSC3 in the CLP 2015 which would equate to 12.25 units which would be rounded up to 13 units with a tenure split of 70% rented and 30% intermediate including First Homes provision. In line with new Government requirements, 25% of affordable housing is required to be delivered as First Homes. The applicant has confirmed that the development would provide the necessary element of affordable housing as required under this Policy, and the submitted plans show 13 units.

9.103. In addition, it is also considered that the development should contribute towards community hall facilities, indoor and outdoor sports provision, towards Public Art, highway infrastructure improvements and health care contributions necessary for the development as outlined by the comments of the consultees. The County Council have also requested a contribution towards public transport services, as well as entering into a S278 agreement.

9.104. The application is supported by a draft heads of terms of the agreement are likely to include the following:

- Affordable housing;
- Offsite sport (indoor and outdoor) and recreation contributions;
- Community hall contribution;
- Bus service contribution;
- Household waste recycling centre contribution;
- Education contributions.

It is expected that these matters will be negotiated with the LPA during the course of the planning application process.

9.105. Although the draft heads of terms do not cover all the areas where a contribution would be required it does show a commitment of the applicant to opening negotiations on an agreement. Notwithstanding this, the applicant has confirmed that they are willing to enter into a S106 agreement to cover the costs of the items outlined in the consultee comments. A commitment to this has been made by the applicant and solicitor details provided to allow for this process to proceed. As such it is considered that in the event that permission was to be approved for this development it would be the subject of an agreed S106 being in place. As such it is considered that the development will comply with Policies BSC3 and INF1 of the CLP 2015 as well as guidance outlined in paragraph 54 of the NPPF. Details of the S106 contributions/obligations can be seen in Appendix 1 of this report.

10. PLANNING BALANCE AND CONCLUSION

10.1. In reaching an informed decision on planning applications there is a need for the Local Planning Authority to undertake a balancing exercise to examine whether the adverse impacts of a development would be outweighed by the benefits such that, notwithstanding the harm, it could be considered sustainable development within the meaning given in the NPPF. In carrying out the balancing exercise it is, therefore, necessary to take into account policies in the development plan as well as those in the NPPF. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined against the provisions of the development plan

unless material considerations indicate otherwise. The NPPF supports this position and adds that proposals that accord with an up-to-date development plan should be approved and those which do not should normally be refused unless outweighed by other material considerations.

Positive benefits - Economic

- 10.2. The 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 these should also be afforded limited positive weight.

Social

- 10.3. The delivery of homes across the district is an important positive material consideration in the planning balance.
- 10.4. The proposals would provide affordable housing at a tenure providing housing for those in need and a significant social benefit. Significant weight is to be afforded to the social benefits of the proposed housing.
- 10.5. The proposals would also provide significant social benefit from on-site recreation and play facilities which would be both at the level expected by policy as well as beyond the Policy requirements. The provision of this would also be of community benefit to existing residents.
- 10.6. 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.

Environmental

- 10.7. The proposals also commit to a minimum of 10% biodiversity net gain, which also carries positive weight.
- 10.8. The proposals commit to the provision of a sustainable construction methods, which should be given positive weight.
- 10.9. The proposed drainage strategy would improve the drainage on the site and have the potential to assist in reducing the issue of water logging rear gardens of properties in Health Close. This would be a positive contribution and weighs in favour of the application.
- 10.10. Whilst Milcombe has limited services, public transport links and employment opportunities, it is defined as a Category A village within the adopted Local Plan and it does have an hourly bus service as well as a village store and is close to Bloxham a much larger Category A village, which should be given positive weight.

10.11.

Negative impacts

- 10.12. It is also important to recognise that every development has to consider negative impacts in terms of the development and consider whether the positive benefits outweigh these negative impacts.
- 10.13. The application site is positioned beyond the existing built-up limits of the village on the western side and is an area of countryside. Moderate weight is therefore attached

to the effect of the proposal on the character and appearance of the countryside through the development of greenfield land.

10.14. The weight to be afforded to the development of greenfield land would be greater than moderate if the wider impact was greater. In this instance, it is clear that the site is relatively well screened by mature and semi-mature landscaping along three boundaries and adjoins the rear gardens of existing residential properties on the fourth boundary. As such the development would have limited impact on the wider landscape and views of / into the village and would not be seen as an isolated development in the open countryside.

Conclusion

10.15. On the basis that the Council is able to demonstrate a five-year supply of land of housing, the housing policies of the Development Plan are the starting point for decision taking and afforded full weight.

10.16. The site is unallocated in the adopted CLP 2015. The proposal seeks permission for 35 houses on the edge of a Category A Village. While the total number of houses developed under Policy Villages 2 has exceeded or will soon exceed 750, the policy is reflective of the housing strategy of the Local Plan in seeking to direct residential development to the most sustainable settlements in the District.

10.17. Overall, it is considered that the identified harm to the character and appearance of the locality is outweighed by the benefits of the scheme and it is recommended that planning permission is granted.

11. RECOMMENDATION

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

- (a) NO NEW MATERIAL PLANNING CONSIDERATIONS BEING RAISED FOLLOWING THE ARCHAEOLOGY FIELD WORK AND**
- (b) THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND**
- (c) 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 CONTRIBUTIONS OUTLINED IN APPENDIX A ATTACHED TO THIS COMMITTEE REPORT.**

CONDITIONS

Time Limit

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall not be carried out otherwise than in complete accordance with the approved plans ML PL13, ML PL12, MIL PL52, MIL PL45, 7908 LSP ASP 3 RAev A, MIL PL16, MIL PL15, MIL PL14, MIL PL04, MIL PL05,

MIL PL06, MIL PL08, MIL PL09, MIL PL10, MIL PL03, MIL PL43, MIL PL41, MIL PL17, MIL PL11, MIL PL18, MIL PL19, MIL PL20, MIL PL21, MIL PL22, MIL PL23, MIL PL25, MIL PL27, MIL PL28, MIL PL29, MIL PL30, MIL PL31, MIL PL40, MIL PL51, received 14/07/2022 and amended plans MIL PL42 Rev A, MIL PL44 Rev A, received 02/08/2022 and amended plans 8220308_6201 Rev C, MIL PL50 Rev B, 8220308_62202 Rev C, MIL PL 24 Rev A, 8220308_6103, 8220308_6102 Rev B, received 20/10/2022 and plan MIL PL22 Rev A received 03/11/2022, received 16/01/2023 MIL PL01 Rev A, MIL PL02 Rev P, MIL PL54 REV D and MIL PL55 Rev D received 20/04/2023 unless a non-material or minor material amendment is approved by the Local Planning Authority under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

Reason: To clarify the permission and for the avoidance of doubt.

3. Prior to first occupation of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) 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 LEMP.

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 Section 15 of the National Planning Policy Framework.

4. No development hereby permitted shall take place other than in accordance with the terms and conditions of the Council's organisational licence (WML-OR112) and with the proposals detailed on plan "Land West of Heath Close, Milcombe: Impact Plan for great crested newt District Licensing (Version 2)", dated 18th October 2022

Reason: In order to ensure that adverse impacts on great crested newts are adequately mitigated and to ensure that site works are delivered in full compliance with the organisational licence WML-OR112.

5. No development hereby permitted shall take place unless and until a certificate from the Delivery Partner (as set out in the District Licence WML-OR112), confirming that all necessary measures in regard to great crested newt compensation have been appropriately dealt with, has been submitted to and approved by the local planning authority and the local authority has provided authorisation for the development to proceed under the district newt licence. The Delivery Partner certificate must be submitted to this planning authority for approval prior to the commencement of the development hereby approved.

Reason: In order to adequately compensate for negative impacts to great crested newts.

6. The approved drainage system shall be implemented in full accordance with the approved Detailed Design prior to the first occupation of any dwelling on the site:

Document: Flood Risk and Drainage Assessment
Ref: 30322
Issue: September 2022
Drawing: Below Ground Drainage Layout Sheet 1
Drawing No: 30322/6001, P05
Drawing: Below Ground Drainage Layout Sheet 2
Drawing No: 30322/6002, P05

Drawing: Exceedance flow plan
Drawing No: SK 6150
Issue: 22/09/2022
Drawing: Below Ground Drainage Details Sheet 1
Drawing no: 30322/6101, P01
Drawing: Below Ground Drainage Details Sheet 2
Drawing no: 30322/6102, P01
Drawing: Below Ground Drainage Details Sheet 3
Drawing no: 30322/6103, P01
All relevant Hydraulic calculations produced via Microdrainage
Date: 22/09/2022
File: SWS 2.MDX

Reason:

To ensure that the principles of sustainable drainage are incorporated into this proposal.

7. Prior to first occupation of the development hereby approved 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: To ensure that the principles of sustainable drainage are incorporated into this proposal.

8. Samples of the tiles/slates (including ridge tiles) to be used in the covering of the roof of the dwelling(s) shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The development shall not be carried out other than in accordance with the samples so approved and shall be retained as such thereafter.

Reason: To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development and to safeguard the character and appearance of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

9. The external walls of the dwelling(s) to be constructed out of stone shall be constructed in weathered ironstone which shall be laid, dressed, coursed and in accordance with a sample panel (minimum 1 metre squared in size) which shall be constructed on site to be inspected and approved in writing by the Local Planning Authority before the stonework is commenced. The sample panel shall be constructed in a position that is protected and readily accessible for viewing in good natural daylight from a distance of 3 metres. The panel shall be retained on site for the duration of the construction contract.

Reason: To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development and to safeguard the character and appearance of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

10. The external walls of the dwellings to be constructed out of brick shall be constructed in brickwork, of a type, colour, texture, face bond and pointing which is in accordance with a sample panel (minimum 1 metre squared in size) which shall be constructed on site to be inspected and approved in writing by the Local Planning Authority before the commencement of the brickwork. The sample panel shall be constructed in a position that is protected and readily accessible for viewing in good natural daylight from a distance of 3 metres. The panel shall be retained on site for the duration of the construction contract.

Reason: To ensure that the materials are appropriate to the appearance of the locality and to ensure the satisfactory appearance of the completed development and to safeguard the character and appearance of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

11. Full details of the enclosures along all boundaries and within the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of those works. Such approved means of enclosure, in respect of those dwellings which are intended to be screened, shall be erected prior to the first occupation of those dwellings.

Reason: To ensure the satisfactory appearance of the completed development, to safeguard the privacy of the occupants of the existing and proposed dwellings and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

12. Notwithstanding the details submitted, no development shall commence until and unless a plan detailing the proposed parking provision for vehicles to be accommodated within the site, including details of the proposed surfacing and drainage of the provision, has been submitted to and approved in writing by the Local Planning Authority. The approved parking facilities shall be laid out and completed in accordance with the approved details before the first occupation of the [buildings/dwellings]. The car parking spaces shall be retained for the parking of vehicles at all times thereafter.

Reason: In the interests of highway safety, to ensure the provision of adequate off-street car parking and to comply with Government guidance in Section 12 of the National Planning Policy Framework.

13. No development shall commence unless and until a Construction Traffic Management Plan prepared in accordance with Oxfordshire County Council's checklist, has been submitted to and approved in writing by the local planning authority. The development shall not be carried out other than in full accordance with the details approved in the Construction Traffic Management Plan.

Reason: In the interests of highway safety, and to comply with Government guidance in Section 12 of the National Planning Policy Framework.

14. Prior to first occupation of any dwelling hereby approved a Travel Information Pack shall be submitted to and approved by the Local Planning Authority. The first residents of each dwelling shall be provided with a copy of the approved Travel Information Pack.

Reason: In the interests of sustainability, to ensure a satisfactory form of development and to comply with Policies SLE4 and ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

15. Notwithstanding the provisions of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (or in any provision equivalent to that class in any statutory instrument revoking, amending or re-enacting that order), the garage(s) shown on the approved plans shall be retained for the garaging of private motor vehicles and shall not be converted to provide additional living accommodation.

Reason: In the interests of highway safety, to ensure the provision of adequate off-street car parking and to comply with Government guidance in Section 12 of the National Planning Policy Framework.

16. Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The covered cycle parking facilities so provided shall thereafter be permanently retained and maintained for the parking of cycles in connection with the development.

Reason: In the interests of promoting sustainable transport modes in accordance with Government advice in the National Planning Policy Framework.

17. All planting, seeding or turfing comprised in the approved details of landscape strategy plan shall be carried out in the first planting and seeding seasons following the occupation of the first dwelling on the site or in accordance with any other program of landscaping works previously approved in writing by the Local Planning Authority. Any trees and/or shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.

Reason: To ensure that the agreed landscaping scheme is maintained over a reasonable period that will permit its establishment in the interests of visual amenity and to accord with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

18. A schedule of landscape maintenance of the landscape details as shown in the Landscape Schedule for life of the development shall be submitted to and approved in writing by the Local Planning Authority prior to occupation of the development. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure that the agreed landscaping scheme is maintained over a

reasonable period that will permit its establishment in the interests of visual amenity and to accord with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

19. 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 any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 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.

20. If a potential risk from contamination is identified as a result of the work carried out under condition 20, 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 any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 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.

21. If contamination is found by undertaking the work carried out under condition 21 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 any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 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.

22. If remedial works have been identified in condition 21, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 22. 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 any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

23. If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

Reason: To ensure that any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

24. No development shall commence unless and until a report has been submitted to 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. Thereafter, and prior to the first occupation of the dwellings affected by this condition, 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

25. No development shall take place, including any works of demolition until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The statement shall provide for at a minimum:

- a) The parking of vehicles of site operatives and visitors;
- b) The routing of HGVs to and from the site;
- c) Loading and unloading of plant and materials;
- d) Storage of plant and materials used in constructing the development;
- e) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- f) Wheel washing facilities including type of operation (automated, water recycling etc) and road sweeping;
- g) Measures to control the emission of dust and dirt during construction;
- h) A scheme for recycling/ disposing of waste resulting from demolition and construction works;
- i) Delivery, demolition and construction working hours;

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason: To ensure the environment is protected during construction in accordance with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within 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.

26. Details of the external lighting including the design, position, orientation and any screening of the lighting shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The lighting shall be installed and operated in accordance with the approved scheme at all times thereafter.

Reason: In the interests of visual amenity and highway safety to comply with Government advice in The National Planning Policy Framework to protect the amenities of nearby residents and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996

27. No development shall take place until the existing tree(s) to be retained have been protected in accordance with an Arboricultural Method Statement which details the protective measures where Root Protection Areas are impacted. A pre-commencement site meeting must be arranged to ensure tree protection has been put in place and regular monitoring will be required to ensure the protection remains in place for the duration of the development for compliance.

The barriers shall be erected before any equipment, machinery or materials are brought onto the site for the purposes of development and / or demolition and shall be maintained until all equipment machinery and surplus material has been removed from the site. Nothing shall be stored or placed within the areas protected by the barriers erected in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavations be made, without the written consent of the Local Planning Authority.

Reason : To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within 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.

INFORMATIVE NOTES

1. The Advance Payments Code (APC), Sections 219 -225 of the Highways Act, is in force in the county to ensure financial security from the developer to offset the frontage owners' liability for private street works, typically in the form of a cash deposit or bond. Should a developer wish for a street or estate to remain private then to secure exemption from the APC procedure a 'Private Road Agreement' must be entered into with the County Council to protect the interests of prospective frontage owners. Alternatively, the developer may wish to consider adoption of the estate road under Section 38 of the Highways Act.

2. A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer. Any discharge made without a permit is deemed illegal and may result in prosecution under the

provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 020 3577 9483 or by emailing trade.effluent@thameswater.co.uk. Application forms should be completed on line via www.thameswater.co.uk. Please refer to the Wholesale; Business customers; Groundwater discharges section.

3. It is recommended that the NatureSpace Best Practice Principles are taken into account and implemented where possible and appropriate. It is recommended that the NatureSpace certificate is submitted to this planning authority at least 6 months prior to the intended commencement of any works on site.

It is essential to note that any works or activities whatsoever undertaken on site (including ground investigations, site preparatory works or ground clearance) prior to receipt of the written authorisation from the planning authority (which permits the development to proceed under the District Licence WML-OR112) are not licensed under the GCN District Licence. Any such works or activities have no legal protection under the GCN District Licence and if offences against GCN are thereby committed then criminal investigation and prosecution by the police may follow.

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

Planning Obligation		Regulation 122 Assessment	
Detail	Amount	Trigger point	
Public Transport	£39,655	No more than SEVENTY PER CENT (70%) of the Dwellings shall be Occupied until the Practical Completion Certificate has been issued	<p>Necessary – to ensure sustainable mode of transport and encourage and integrated into the development and made attractive to future users to reduce car dependency.</p> <p>Directly related as these will benefit the future occupants of the site and encourage use of sustainable transport options in the locality.</p> <p>Fairly and reasonably related in scale and kind. The contributions are in scale with the development and would be directly benefiting residents of the future development.</p>
Health	£34,848.00	No more than SEVENTY PER CENT (70%) of the Dwellings shall be Occupied until the Practical Completion Certificate has been issued	<p>Necessary - Insufficient Consulting rooms in local GP's to cope with increased population growth as a direct result of the increase in dwellings.</p> <p>Directly related – For use of future occupiers of the development</p> <p>Fairly and reasonably related in scale and kind – In accordance with the policy and guidance provisions adopted by the Council</p>
Community Hall facilities	£40,009.84 – final figure to be agreed.	Prior to the First Occupation of any Dwelling on the Site	<p>Necessary - contribution towards improvements at Milcombe Village Hall, including disabled access, disabled toilets and heating, so the facility can be used by more members of the community</p>

			<p>Directly related – For use of future occupiers by the development</p> <p>Fairly and reasonably related in scale and kind – In accordance with Policy BSC 12 – The council will encourage the provision of community facilities to enhance the sustainability of communities</p>
Outdoor Sport Provision	£70,596.05	Off-site Outdoor Sports Facilities Contribution in the following instalments:- 50% prior to the first Occupation of any Dwelling; remainder prior to the first Occupation of 50% of the Dwellings	<p>Necessary - contribution towards the purchase of land in Milcombe for outdoor sports pitches and associated building / equipment or towards the improvement of facilities at Bloxham Recreation Ground.</p> <p>Directly related – For use by future occupiers of the development</p> <p>Fairly and reasonably related in scale and kind – In accordance with Policy BSC 10 Ensuring proposals for new development contribute to sport and recreation provision commensurate to the need generated by the proposals. Policy BSC 11 – Local standards of provision – outdoor recreation</p>
Indoor Sports Provision	£29,223.14	Off-site Indoor Sports Facilities Contribution 50% prior to the first Occupation of any Dwelling; remainder prior to the first Occupation of 50% of the Dwellings	<p>Necessary - off-site indoor sport contribution towards improvements at Milcombe Village Hall to allow for the provision of indoor sporting opportunities such as badminton and fitness classes.</p> <p>Directly related – For use by future occupiers of the development</p>

			<p>Fairly and reasonably related in scale and kind – Policy BSC 10 Addressing existing deficiencies in provision through enhancements of provision, improving access to existing facilities. Ensuring proposals for new development contribute to sport and recreation provision commensurate to the need generated by the proposals. Policy BSC 12 – Indoor Sport, Recreation and community Facilities. The council will encourage the provision of community facilities to enhance the sustainability of communities – enhancing quality of existing facilities and improving access</p>
Public Realm / Public Art	£7,840.00	No more than SEVENTY PER CENT (70%) of the Dwellings shall be Occupied until the Practical Completion Certificate has been issued	<p>Necessary - Public realm and public art can plan an important role in enhancing the character of an area, enriching the environment, improving the overall quality of space and therefore peoples’ lives. Public art and the quality of the public realm are important considerations in the design and layout of a development.</p> <p>Directly related – We are seeking public art in the locality of the development. The final location would need to be related to the proposed development site.</p> <p>Fairly and reasonably related in scale and kind – SPD 4.130 Public Realm, Public Art and Cultural Well-being. Public realm and public art can plan an important role in enhancing the character of an area, enriching the environment, improving the overall quality of space and therefore peoples’ lives. SPD 4.132 The Governments Planning Practise Guidance (GPPG) states public art and</p>

			sculpture can plan an important role in making interesting and exciting places that people enjoy using.
Primary Education	£226,540.00	No more than SEVENTY PER CENT (70%) of the Dwellings shall be Occupied until the Practical Completion Certificate has been issued	<p>Necessary to provide adequate education provision in Bloxham primary school as existing infrastructure is at capacity with planned growth.</p> <p>Directly related. Will provided additional school places for children living at the proposed development</p> <p>Fairly and reasonably related in scale and kind. In accordance with the County Councils standards for provision of new school places based on cost per additional pupil.</p>
Special Education	£17,948.00	No more than SEVENTY PER CENT (70%) of the Dwellings shall be Occupied until the Practical Completion Certificate has been issued	<p>Necessary to provide adequate education provision in Bloxham primary school as existing infrastructure is at capacity with planned growth.</p> <p>Directly related. Will provided additional school places for children living at the proposed development</p> <p>Fairly and reasonably related in scale and kind. In accordance with the County Councils standards for provision of new school places based on cost per additional pupil.</p>
Waste Management	£3,289.00	TBC	Necessary The County Council provides a large number of appropriate containers and storage areas at HWRCs to maximise the amount of waste reused or recycled that is delivered by local residents. However, to manage the waste appropriately this requires more space and

			<p>infrastructure meaning the pressures of new developments are increasingly felt.</p> <p>Directly related. Will provided expansion and efficiency of Household Waste Recycling Centre (HWRC) capacity.</p> <p>Fairly and reasonably related in scale and kind. In accordance with the County Councils standards for provision of new school places based on cost per additional pupil.</p>
LAP	£36,135.03 or Management company	No more than SEVENTY PER CENT (70%) of the Dwellings shall be Occupied until the Practical Completion Certificate has been issued	<p>Necessary – Site based LAP required in accordance with Policy BSC10.</p> <p>Directly related – contribution towards the maintenance of the site-based LAP.</p> <p>Fairly and reasonably related in scale and kind – In accordance with Policy BSC 10 Ensuring proposals for new development contribute to play and recreation provision commensurate to the need generated by the proposals. Policy BSC 11 – Local standards of provision – outdoor recreation</p>
Affordable Housing	35% with a tenure split of 70% rented and 30% intermediate	Not Occupy or cause or permit the Occupation of more than fifty per cent (50%) of the Market Dwellings until each area comprising the Affordable	Necessary – as would provide housing for those who are not able to rent or buy on the open market pursuant Policy BSC3 of the Cherwell Local Plan

	including 25% First Homes provision.	Housing Site has been offered to a Registered Provider	Directly related – The affordable housing would be provided on-site in conjunction with open market housing Fairly and reasonably related in scale and kind – Based on the Cherwell Local Plan requirement for percentage of affordable housing.
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