

**Case Officer:** Katherine Daniels

**Applicant:** Pembury Webb Ltd

**Proposal:** Residential development for up to 53 dwellings with All Matters Reserved except for Access

**Ward:** Deddington

**Councillors:** Cllr McHugh, Cllr Reeves, Cllr Williams

**Reason for Referral:** Development of 10 or more dwellings

**Expiry Date:** 22 June 2023

**Committee Date:** 13 July 2023

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

**MAIN REPORT**

**1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site is located off Hempton Road in Deddington. The site is proposed to be accessed off Winborn Close, which is a late 1990s estate. To the west of the application site is a new development recently constructed. Part of this site is still being constructed. A public Bridleway is located to the east of the application site. This Bridleway eventually links with Adderbury. This footpath is well used by walkers. The boundary treatment with the application site and the footpath consists of a mature, well-maintained hedgerow.
- 1.2. Residential properties are located to the east of the Bridleway, and other residential properties are located to the south. Some of the northern boundary of the site consists of a mature and well-managed hedgerow. The site is relatively flat, however, the ground slopes slightly downhill from south to north. The ground level falls away significantly from the north of the site. The application site is located on the brow of the hill.
- 1.3. At present the site is being used for the purposes of an arable field.

**2. CONSTRAINTS**

- 2.1. The application site is within an area of low level natural elevated arsenic area, a radon area. The site is within the best and most versatile land. The site is located within Flood Zone 1.

**3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. The proposal has been amended reducing the number of dwellings from up to 60 to up to 53 dwellings, creation of new vehicular access off Wimborn Close, and

associated works. The application is accompanied by an indicative masterplan, which shows 2 parcels of residential development.

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

- 4.1. The following planning history is considered relevant to the current proposal:
- 4.2. 18/02147/OUT – Outline planning application for up to 21 dwellings comprising 1, 2, 3, and 4 bedroom dwellings together with access, garaging and landscaping (all matters reserved except for access). Permitted.
- 4.3. 20/02083/OUT – Erection of 14 two-storey dwellings. Permitted.
- 4.4. 20/03660/REM – Reserved matters application to 18/02147/OUT – erection of 21 dwellings (appearance, landscaping, layout and scale). Permitted.
- 4.5. 22/02570/REM – Reserved Matters application to 20/02083/OUT for the approval of details of layout (internal access roads and footpaths), scale, appearance and landscaping relating to the erection of 14 dwellings including 5 affordable dwellings, together with the provision of parking, landscaping and other associated details. Permitted.

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

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

#### **6. RESPONSE TO PUBLICITY**

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

6.2. 5 letters of representation have been received to date. The comments raised by third parties are summarised as follows:

- Speculative development
- Infrastructure cannot cope
- Has been submitted prior to the Neighbourhood Plan being adopted
- Highway Safety
- Loss of Grade 1 agricultural land
- Distance to village centre

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. DEDDINGTON PARISH COUNCIL – **Objection** on the following grounds:

- It is premature
- Total of 95 dwellings in this location, too many
- 30 dwellings per hectare is too many and not in keeping with the surroundings.
- Unbalance Deddington
- Highway Safety
- Impact on green space
- Too far from centre of village
- Impact on the landscape
- Housing requirements for Deddington have already been met

### CONSULTEES

- 7.3. OCC HIGHWAYS: **no objections** subject to Section 106 contributions to public transport and public right of way, obligation for a S278 agreement and planning conditions relating to construction management plan, travel information pack and informatives.
- 7.4. OCC LEAD LOCAL FLOOD AUTHORITY: **No Objections** subject to conditions relating to surface water drainage and SUDS.
- 7.5. OCC EDUCATION: **No Objection** subject to section 106 contribution towards early years and primary schools.
- 7.6. OCC PROPERTY: **No objection** subject to Section 106 contributions to library provision.
- 7.7. OCC ARCHAEOLOGY: **No Objections** subject to conditions
- 7.8. OCC WASTE MANAGEMENT: **No Objections** subject to contribution towards the expansion of household waste recycling centres.
- 7.9. CDC RECREATION AND COMMUNITY: **No objections** subject to contributions towards community hall facilities, outdoor sports provision, indoor sports provision, public art
- 7.10. CDC Landscape: **No Objections** subject to details on landscaping, LAP and LEAP.
- 7.11. CDC Arboriculture: **No Objections** subject to condition for an Arboricultural method statement
- 7.12. CDC Environmental Health: **No Comments** on Odour or Noise. **Comments** on contamination, air quality and lighting. Recommends planning conditions.
- 7.13. CDC Policy: No comments received to date

- 7.14. CDC Housing: No comments received to date
- 7.15. CDC Ecology: No comments received to date
- 7.16. CDC Land Drainage: No Comments or Objections
- 7.17. Environment Agency: No comments received to date
- 7.18. CPRE: No comments received to date
- 7.19. Ramblers Association: No comments received to date

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

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

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

- PSD1: Presumption in Favour of Sustainable Development
- 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
- Drainage
- Residential
- Ecology
- Heritage
- Sustainable Construction
- S106

#### Principle of Development

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 HELAA116. The accompanying HELAA report confirmed that this site is unsuitable for development, as it could cause a significant landscape and visual impact.
- 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). Deddington 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 are

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 Deddington 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-up form, is outside of the existing built form of Deddington village, and therefore within the countryside. The proposal for development on a greenfield would have an urbanising impact.
- 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. Deddington 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). Deddington is one of the most served category A villages and has a large number of services and facilities.
- 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, 3 pubs, butchers, deli, clothes store, bike shop, primary school, playing fields, nursery etc. The village is also served by an hourly bus service (Oxford to Banbury). The site is considered to be within a sustainable location.
- 9.35. There are benefits of the additional housing, including the provision of affordable housing in the area, and the site would be contained (see later in this report), the green infrastructure proposed on the edge of the application site. Regard is had to the relative size of the development of the conclusions of the 2018 HELAA.

#### *Conclusion*

- 9.36. 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, which Deddington is one of the larger more sustainable villages within the district. 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*

- 9.37. 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.*

- 9.38. 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.
- 9.39. 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.
- 9.40. 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*
- 9.41. With regards to this current proposal, it is confirmed that the density of the development is at 30 dwellings per hectare which in accordance with the requirements of Policy BSC2.

#### *Assessment*

- 9.42. This is an outline application, which all matters are reserved, except for access, to be considered at a later stage. The proposal includes a masterplan which gives details on how the site could be developed if outline consent is granted. The masterplan shows a buffer area to the boundary of the site adjoining the countryside. This includes Sustainable Urban Drainage features and a pumping station. The indicative road layout also separates the green buffer with the proposed dwellings. In effect, the proposal seeks to have a perimeter road.
- 9.43. The site comes under the Ironstone Hills and Valleys within the Cherwell Landscape Character Assessment. The main distinguishing features of these are extremely complex topography and style of vernacular buildings. The sensitivity of the landscape is considered to be medium sensitivity.
- 9.44. The Landscape Officer agrees with the LVIA, that the impact of the proposed development of the Landscape would be moderate and the impact upon the Landscape Character is minor to moderate. There will be some urbanisation effects as a result of the proposed development, however, this will be seen in context to the existing residential properties to the east. The proposed development would not extend further into the countryside than the existing development to the east and west of the site. In effect, the proposal is 'rounding off' the village in this location.

- 9.45. The application states that the dwellings would be a maximum of two-storey dwellings (up to 11m in height). This is tall for two-storeys – the largest two-storey dwellings are c.9m. However, scale is a reserved matter and not to be assessed here. The Council's landscape officers advise that a Reserved Matters scheme would need to include single-storey dwellings to the north edge of the development to minimise the visual impacts. This would then reduce the receptors from the Public Right of Way. It is agreed that this is a reasonable approach and would be seen as a stepping-up effect when approaching the village from the PRow. A condition can be imposed to ensure building height details are submitted as part of any approval.
- 9.46. The materials of any development would also have to be carefully considered, as the colours of the brick/stone and roofing tiles could blend in within the locality. The duller the materials, the less impact the proposal would have on the wider landscape. This would assist with creating a high-quality scheme, which respects and enhances the site's surroundings.
- 9.47. The 2018 HELAA suggested that the development of this site, would have a negative impact on the wider landscape; however, as mentioned above, this is given limited weight. Since the 2018 HELAA, further development has occurred along the Hempton Road, which has altered the site's context.
- 9.48. Overall, although there would be some change to the overall landscape, the development would be seen in conjunction with the existing developments that have occurred and currently being developed. This reduces any harm caused to the setting of Deddington. The impact on the character and appearance is considered to be acceptable, and the development could result in a high-quality scheme.

#### HIGHWAYS IMPACT

- 9.49. 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.*
- 9.50. 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.*
- 9.51. The proposed access into the site is off Wimborn Close, which is an existing cul-de-sac. The Local Highway Authority has not objected to the proposal, subject to the securing of S106 obligations towards public transport and public rights of way. A carriageway and footway along the full length of the west side of Wimborn Close. Planning conditions are also recommended.
- 9.52. Overall, therefore, it is considered that the proposal would not result in a danger in those using the highway, and the impact is considered to be satisfactory.

#### 9.53. DRAINAGE

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

9.55. Paragraph 165 of the NPPF continues by stating that *major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:*

- a) *take account of advice from the lead local flood authority;*
- b) *have appropriate proposed minimum operational standards;*
- c) *have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and*
- d) *where possible, provide multifunctional benefits.*

9.56. 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.

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

9.58. The current 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. The applicant submitted a Flood Risk Assessment as part of the application. The Lead Local Flood Authority has commented on this, and does not have an objection to the scheme provided suitably worded conditions are imposed. For this reason, it is considered that the drainage of the site is acceptable.

#### RESIDENTIAL AMENITY

9.59. 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.

- 9.60. The application is in outline form at this stage; therefore the consideration of residential amenity is greater at the reserved matters stage. The submitted indicative masterplan indicates that the site can accommodate the number of dwellings without having a detrimental impact to the amenities of the existing properties and proposed dwellings.
- 9.61. There would be an increase in vehicular traffic through Winborn Close and is likely to have a negative impact on the living conditions of the residential properties in Winborn Close. However, the additional traffic is no different to any other residential street. The proposed development will not create a rat run within Deddington. It is therefore considered that the limited impact on residential amenity is not sufficient to refuse the application.

### Ecology Impact

#### *Legislative context*

- 9.62. 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.
- 9.63. 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.
- 9.64. 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.
- 9.65. 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.

9.66. 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*

9.67. 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.

9.68. 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.

9.69. 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.

9.70. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.

9.71. 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.

9.72. 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.

9.73. The Planning Practice Guidance dated 2014 post dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should

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

#### *Assessment*

- 9.74. The applicants have provided an ecology statement, which considered there will be opportunities for nesting birds hedgerow and trees, sheltering reptiles, foraging bats, wild mammals and priority species. There is a potential loss of or damage to active birds nests, and harm to existing reptiles on site or badgers and other wild animals.
- 9.75. The ecology statement carries a number of recommendations to ensure the development does not have a negative on ecology. The recommendations within the report include habitat enhancements. This includes details for appropriate landscaping scheme which will help support biodiversity. Another recommendation relates to Bat Boxes, and 5 bat boxes should be incorporated within the new residential dwellings. Sensitive Lighting is another recommendation so not to cause an adverse impact to bats. Development that may have an impact on a birds nest should avoid the nesting bird season, and a walk about is recommended prior to development works commencing.
- 9.76. Further recommendations include having a suitably qualified ecologist to ensure the vegetation removal does not impact on any reptile species. This also includes mammals.
- 9.77. The proposal includes a biodiversity net gain of ---%. The applicants will have to use an area to the north for the biodiversity net gain. This area of land is within the ownership of the applicants. In addition, this land slopes downwards away from the village. This will create a green area, which will be used for Biodiversity Net Gain for 30 years.
- 9.78. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.
- 9.79. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

#### HERITAGE

- 9.80. 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.
- 9.81. 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.

- 9.82. The site is not within a Conservation Area nor adjoining a listed building and the proposal is considered not to have significant impacts in these regards.
- 9.83. 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 given the relationship with Deddington Castle which is 860m southeast of the application site.
- 9.84. The applicant has carried out a geophysical survey which shows there are two possible discrete archaeological features within the site. As a result, the County Archaeologist recommends a pre-commencement condition for a staged programme of archaeological matters. Therefore, it is considered that the impact upon archaeology is acceptable provided conditions are imposed.

### SUSTAINABLE CONSTRUCTION

- 9.85. 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*

- 9.86. 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).
- 9.87. 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.

- 9.88. 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*

- 9.89. The application is at outline stage, therefore it is not clear how the dwellings will be constructed, and how many sustainable features would be used as part of the development of the scheme. Therefore, further consideration would be required at the reserved matters stage. There are no reasons why this application cannot accord with Policy.

#### S106

- 9.90. 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.
- 9.91. 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.

- 9.92. 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.
- 9.93. 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.
- 9.94. 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 up to 53 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.
- 9.95. The policy requirement is for 35% affordable housing as set out in Policy BSC3 in the CLP 2015 which would equate to 18.55 units which would be rounded up to 19 units. In line with new Government requirements, 25% of affordable housing is required to be delivered as First Homes.
- 9.96. 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.
- 9.97. 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. The proposed masterplan includes the provision of a LAP and LEAP, which requires a minimum area of 500 sqm. Although, it is not shown how large this area is, this can be controlled by way of planning conditions/and or a S106 obligation.
- 9.98. It is expected that these matters will be negotiated with the LPA during the course of the planning application process.
- 9.99. 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. 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 proposed 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. Deddington has a number of services, public transport links and employment opportunities, and is one of the larger Category A villages, which should be given positive weight.

### *Negative impacts*

10.9. 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.

10.10. 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 considered that the proposed development would round off the existing village and not extend further out into the open countryside. 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*

10.11. 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.

10.12. The proposal seeks permission for up to 53 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, which Deddington is considered to be a sustainable settlement.

10.13. 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) THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND**
- (b) 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 AND OBLIGATIONS OUTLINED IN APPENDIX A ATTACHED TO THIS COMMITTEE REPORT.**

#### Conditions

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

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

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

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

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

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

4. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out in broad accordance with the following plans and documents: Application form, Design and Access Statement by Pegasus Planning, Ecological statement

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

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

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

6. Prior to the submission of any reserved matters and prior to the commencement of development 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.

7. If a potential risk from contamination is identified as a result of the work carried out under condition 6, 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.

8. If contamination is found by undertaking the work carried out under condition 7, 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.

9. If remedial works have been identified in condition 8, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 8. 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.

10. No development shall commence unless and until a detailed surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to the first occupation of the development. The scheme shall include:

- A compliance report to demonstrate how the scheme complies with the "Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire";
- Full drainage calculations for all events up to and including the 1 in 100 year plus 40% climate change;
- A Flood Exceedance Conveyance Plan;
- Comprehensive infiltration testing across the site to BRE DG 365 (if applicable)
- Detailed design drainage layout drawings of the SuDS proposals including cross-section details;

- Detailed maintenance management plan in accordance with Section 32 of CIRIA C753 including maintenance schedules for each drainage element, and;
- Details of how water quality will be managed during construction and post development in perpetuity;
- Confirmation of any outfall details.
- Consent for any connections into third party drainage systems

Reason: To ensure satisfactory drainage of the site and appropriate flood prevention and to comply Policy ESD 7 of the Cherwell Local Plan 2011-2031 Part 1 and with Government guidance contained within the National Planning Policy Framework.

11. Prior to the first occupation of the development, 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 satisfactory drainage of the site and appropriate flood prevention and to comply Policy ESD 7 of the Cherwell Local Plan 2011-2031 Part 1 and with Government guidance contained within the National Planning Policy Framework.

12. No development shall commence unless and until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved CTMP.

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

13. Prior to first occupation of the development a Travel Information Pack shall be submitted to and approved by the Local Planning Authority. Thereafter the first residents of each dwelling shall be provided with a copy of the approved Travel Information Pack.

Reason: To ensure all residents and employees are aware from the outset of the travel choices available to them, and to comply with Government guidance contained within the National Planning Policy Framework.

14. No development shall take until a Construction Environmental Management Plan (CEMP) 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. Storage of plant and materials used in constructing the development;
  - d. Wheel washing facilities/ road sweeping;
  - e. Measures to control the emission of dust and dirt during construction;
  - f. Delivery and construction working hours;

The approved CEMP shall be adhered to throughout the construction period for the development.

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

15. Prior to the commencement of the development hereby approved including any demolition, and any works of site clearance, and as part of any reserved matters application for layout and landscaping, a method statement and scheme for enhancing biodiversity on site such that an overall net gain for biodiversity is achieved, to include details of enhancement features and habitats both within green spaces and integrated within the built environment, shall be submitted to and approved in writing by the Local Planning Authority. This shall also include a timetable for provision. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.

Reason -To ensure the development provides a net gain in biodiversity in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

16. Prior to the commencement 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 the National Planning Policy Framework.

17. Prior to the installation of any external lighting a full lighting strategy to include illustration of proposed light spill and which adheres to the recommendations set out in Section 6 - Mitigation Measures and Biodiversity Net Gains (MM2) of the Ecological Appraisal carried out by Aspect Ecology dated June 2020, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved document.

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

18. No dwelling shall be occupied until details have been submitted to and approved in writing, to demonstrate the dwellings have been constructed to ensure that it achieves a water efficiency limit of 110 litres person/day and shall continue to accord with such a limit thereafter.

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



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

Planning Obligation			Regulation 122 Assessment
Detail	Amount	Trigger point	
Public Transport	£67 980 (RPI-x Dec 21)	No more than SEVENTY PER CENT (70%) of the Dwellings shall be Occupied until the Practical Completion Certificate has been issued	<p><b>Necessary</b> – 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><b>Directly related</b> as these will benefit the future occupants of the site and encourage use of sustainable transport options in the locality.</p> <p><b>Fairly and reasonably related in scale and kind.</b> The contributions are in scale with the development and would be directly benefiting residents of the future development.</p>
Public Rights of Way	£18 000 (Baxter 22)	No more than SEVENTY PER CENT (70%) of the Dwellings shall be Occupied until the Practical Completion Certificate has been issued	<p><b>Necessary</b> – to mitigate against the increase in residential numbers on the right of way network</p> <p><b>Directly related</b> as these will benefit the future occupants of the site and to mitigate against the impact of the development</p> <p><b>Fairly and reasonably related in scale and kind.</b> The contributions are in scale with the development and would be directly benefiting residents of the future development.</p>
Community Hall facilities	£68 602.48 Final figure to be agreed.	Prior to the First Occupation of any Dwelling on the Site	<p><b>Necessary</b> - contribution towards improvements at windmill Community centre</p> <p><b>Directly related</b> – For use of future occupiers by the development</p> <p><b>Fairly and reasonably related in scale and kind</b> – In accordance with Policy BSC 12 – The council will encourage the provision of community facilities to enhance the sustainability of communities</p>
Outdoor Sport	£121 021.80 Final	Off-site Outdoor Sports Facilities	<b>Necessary</b> - contribution enhancement of the sports

Provision	figure to be agreed	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	facilities at Windmill Community Centre <b>Directly related</b> – For use by future occupiers of the development <b>Fairly and reasonably related in scale and kind</b> – 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
Indoor Sports Provision	£59 096.81 Final figure to be agreed	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	<b>Necessary</b> - off-site indoor sport contribution towards improvements at Windmill Community Centre to allow for the provision of indoor sporting opportunities such as badminton and fitness classes. <b>Directly related</b> – For use by future occupiers of the development <b>Fairly and reasonably related in scale and kind</b> – 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
Public Realm / Public Art	£13 440 Final figure to be agreed	No more than SEVENTY PER CENT (70%) of the Dwellings shall be Occupied until the Practical Completion Certificate has been issued	<b>Necessary</b> - Public realm and public art can play 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. <b>Directly related</b> – We are seeking public art in the locality of the development. The final location would need

			to be related to the proposed development site. <b>Fairly and reasonably related in scale and kind</b> – 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 sculpture can plan an important role in making interesting and exciting places that people enjoy using.
Primary Education	£391 158 Final Figure to be agreed	No more than SEVENTY PER CENT (70%) of the Dwellings shall be Occupied until the Practical Completion Certificate has been issued	<b>Necessary</b> to provide adequate education provision in Christopher Rawlgs primary school as existing infrastructure is at capacity with planned growth. <b>Directly related.</b> Will provided additional school places for children living at the proposed development <b>Fairly and reasonably related in scale and kind.</b> In accordance with the County Councils standards for provision of new school places based on cost per additional pupil.
Early Years Education	£75 512 Final figure to be agreed	No more than SEVENTY PER CENT (70%) of the Dwellings shall be Occupied until the Practical Completion Certificate has been issued	<b>Necessary</b> to provide adequate education provision in Deddington as existing infrastructure is at capacity with planned growth. <b>Directly related.</b> Will provide additional school places for children living at the proposed development <b>Fairly and reasonably related in scale and kind.</b> In accordance with the County Councils standards for provision of new school places based on cost per additional pupil.
Property (Libraries)	£17 433 (BCIS All in TPI 327)	TBC	<b>Necessary</b> to provide adequate library provision in Deddington as existing infrastructure is at capacity with planned growth. <b>Directly related.</b> Will provide additional library facilities in Deddington. <b>Fairly and reasonably related in scale and kind.</b> In

			accordance with the County Councils standards for provision of libraries and is based on floor space.
Waste Management	£5 638 (BCIS All-in TPI 327)	TBC	<p><b>Necessary</b> 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 infrastructure meaning the pressures of new developments are increasingly felt.</p> <p><b>Directly related.</b> Will provided expansion and efficiency of Household Waste Recycling Centre (HWRC) capacity.</p> <p><b>Fairly and reasonably related in scale and kind.</b> In accordance with the County Councils standards for provision of new school places based on cost per additional pupil.</p>
LAP/LEAP to be provided and maintenance towards upkeep	TBC	No more than SEVENTY PER CENT (70%) of the Dwellings shall be Occupied until the Practical Completion Certificate has been issued	<p><b>Necessary</b> – Site based LAP required in accordance with Policy BSC10.</p> <p><b>Directly related</b> – contribution towards the maintenance of the site-based LAP.</p> <p><b>Fairly and reasonably related in scale and kind</b> – 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 tenure to be agreed.	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 Housing Site has been offered to a Registered Provider	<p><b>Necessary</b> – 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</p> <p><b>Directly related</b> – The affordable housing would be provided on-site in conjunction with open market housing</p> <p><b>Fairly and reasonably related in scale and kind</b> – Based on the Cherwell Local Plan requirement for percentage of affordable housing.</p>

