

**Case Officer:** Rebekah Morgan

**Applicant:** Evans Exports Ltd

**Proposal:** Erection of single dwelling, detached garage and construction of new vehicular access.

**Ward:** Launton And Otmoor

**Councillors:** Cllr. Gemma Coton, Cllr. Simon Holland and Cllr. Julian Nedelcu

**Reason for Referral:** Called in by Cllr. Coton for the following reasons: Public Interest

**Expiry Date:** 09 November 2023

**Committee Date:** 02 November 2023

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## **SUMMARY RECOMMENDATION - REFUSAL**

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

- 1.1. The application site is a former scrapyard but is described in the application form as '*currently disused.*' During the site visit it was observed that several storage containers, a mobile home, and fencing (dividing the site) have been placed on the land. The east and north boundaries of the site have some existing mature trees adjacent to the roads. The site is surrounded by palisade fencing that sits on the inside of the tree line.
- 1.2. The area immediately to the south of the site is a commercial site which currently has a building under construction. To the north are the residential properties that form Bunkers Hill. To the east and west of the site is open countryside.

### **2. CONSTRAINTS**

- 2.1. The application site is within an area identified as potentially contaminated land and within 2km of a Site of Special Scientific Interest.
- 2.2. The site is bounded on two sides by roads. There are mature trees along the boundary with the A4095 and some more trees along the northeast boundary of the site.

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

- 3.1. The application seeks consent for a detached, 5-bedroom dwelling with detached four bay garage. The application would also create a large domestic curtilage for the property with the site area totalling 2246 sq. metres.
- 3.2. The proposed dwelling measures approximately 16.1m in width by 13.8m in depth (at the widest points) with an eaves height of approximately 5m and a maximum ridge height of 9.4m. Details of the proposed materials have not been provided, the application form states '*TBC but most likely brick/render*' with '*interlocking tiles/slates*' for the roof and '*TBC – either upvc or aluminium*' for the windows (no colour stated).

- 3.3. The proposed detached garage would measure approximately 13m in width by 6.7m in depth with an eaves height of approximately 2.5m and a ridge height of approximately 5.9m.
- 3.4. Vehicle access would be taken from the A4095 and the plans indicate the removal of four trees to facilitate this.

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

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

22/03372/F: Variation of Conditions 2 (plans), 3 (alternative scheme), 4 (drainage of parking area) and 5 (landscaping) of 21/01702/F - small changes to the approved plans prior to commencing works. PENDING

21/01702/F: Erection of replacement workshop building for automotive use (B2), alteration to entrance gates, landscaping and demolition of existing buildings. APPROVED

20/00221/CLUE: Certificate of Lawfulness of Existing Use for use of the land for the storage and preparation of cars for banger racing B2. Land shown on plans attached edged red and referred to as ("The Red Land") in statutory declarations. REFUSED

19/02052/F: Erection of galvanised & powder coated green scorio palisade fencing (retrospective). REFUSED

19/02051/CLUE: Certificate of lawfulness of existing use for the use of the land located to the rear of the scrapyard for the preparation of cars for banger racing. REFUSED

19/01320/CLUE: Certificate of Lawful Use Existing for a timber building located to the rear of the scrapyard, together with its use for the preparation of cars for banger racing. APPROVED

19/00620/CLUE: Certificate of Lawfulness of Existing Development for the timber building to the rear of the scrapyard together with its use as a welding and metal fabrication workshop. REFUSED

18/01874/CLUE: Certificate of Lawfulness Existing for scrap and car breakers' yard, including material salvage, fabrication/welding, vehicle maintenance, repair and storage. WITHDRAWN

18/01091/F: Workshop/Storage building. APPROVED

18/0190/F: Vehicle repair workshop. WITHDRAWN

17/01567/F: Change of use and extension of former car repair and storage building to create a dwelling and creation of new access. REFUSED

12/01271/F: Demolition of existing car repair buildings and construction of 3 No. dwellings. REFUSED

05/01158/CLUE: Certificate of Lawful Use Existing: To continue use as a vehicle scrapyard. REFUSED

04/02196/OUT: Outline Planning Permission. Erection of a detached dwelling. WITHDRAWN

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

6.2. Six letters of support have been received. The comments raised by third parties are summarised as follows:

- Improve the overall appearance of the site
- Improvement from the scrapyards use
- Improve landscaping around the area
- No visual impact to having a house in this location
- The site is already well screened
- Works to trees are a positive to reduce the height
- Increase security for the site
- Result in biodiversity net gain and improvements to ecology

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. SHIPTON ON CHERWELL AND THRUPP PARISH COUNCIL: No comments received.

### CONSULTEES

7.3. OCC HIGHWAYS: **no objections** subject to standard conditions in respect of full details of the access, specification details of the turning/parking area and the provision of electric vehicle charging points.

7.4. CDC ENVIRONMENTAL PROTECTION:

- Noise: No objection subject to conditions in respect of the provision of a Construction Environment Plan (CEMP) and details of acoustic insulation to be installed in the property.
- Contaminated land: The contaminated land report has identified some potential contamination risk and recommends a phase 2 investigation. Conditions are requested in respect of additional contaminated land investigations to ensure appropriate remedial measures are identified and implemented on the site.
- Air quality: No comments.
- Odour: No comments.

- Light: No comments.

Additional comments have been received regarding the relationship with the adjacent commercial site. The consent for the commercial site includes conditions requiring no details of any proposed plant.

- 7.5. CDC ARBORICULTURAL OFFICER: **no objections**, the proposal highlights the majority of trees on site are BS5847 category C trees, with an inherently low lifespan. The proposal to manage the trees on the highway goes beyond my comments from a planning perspective. However, from this perspective I am content items in line with BS5837 have been considered, and the proposal does not impact high quality trees as only one has been identified on the site. The proposal reflects an opportunity to increase diverse tree cover within the site and so would request a replanting condition be added should permission be awarded.
- 7.6. CDC ECOLOGY OFFICER: The site is in an ecologically sensitive area being adjacent to the SSSI, LWS and CTA however in itself it has relatively low ecological value due the surfacing (with the exception of the tree lines). There are few ecological issues on site, therefore, given the scale of the development I would consider impacts on the SSSI and LWS are likely to be minimal. The PEA recommends some measures for biodiversity enhancement which are generally fine and should achieve a net gain on site - although they are at a preliminary stage and more details will need submitting via condition. I would recommend that swift bricks are considered within the new dwelling given the adjacent records.

I would recommend that the following Conditions are applied to any permission: A CEMP for biodiversity A lighting strategy A LEMP/biodiversity strategy – detailing any tree planting to be carried out, types of seed mixes, management ongoing, location and type of enhancements such as bat and bird bricks, planting for invertebrates.

## 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
- ESD1: Mitigating and adapting to climate change
- ESD2: Energy Hierarchy and Allowable Solutions
- ESD3: Sustainable Construction
- ESD5: Renewable Energy
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13: Landscape impact
- ESD15: The Character of the Built and Historic Environment
- Villages 1: Village Categorisation

### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18: Development beyond the built-up limits of settlements
- C28: Design and Layout of Development
- C30: Design of New Residential Development
- ENV1: Development likely to cause detrimental levels of pollution
- ENV12: Development on contaminated land

### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Cherwell Residential Design Guide SPD (2018)

## 9. APPRAISAL

### 9.1. The key issues for consideration in this case are:

- Principle of development
- Design and impact on the character of the area
- Residential amenity
- Highway safety
- Trees
- Ecology
- Other matters

#### Principle of Development

- 9.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the District comprises the adopted Cherwell Local Plan 2011-2031 ('CLP 2015') and the saved policies of the Cherwell Local Plan 1996 (CLP 1996). The District's current housing land supply position of 5.4 year's supply of housing for the period 2022-27 as reported in the Council's 2022 Annual Monitoring Report ('AMR'). The Council's housing policies are therefore to be considered up to date, and the 'tilted balance' does not need to be applied in assessment of this application.
- 9.3. Paragraph 10 of the NPPF states that at the heart of the Framework is a presumption in favour of sustainable development. There are three dimensions to sustainable development, as defined by the NPPF, which require the planning system to perform economic, social, and environmental roles. These roles are interdependent and need to be pursued in mutually supportive ways.
- 9.4. The CLP 2015 seeks to allocate sufficient land to meet District Wide Housing needs. The overall housing strategy is to focus strategic housing growth at the towns of Banbury and Bicester and a small number of strategic sites outside of these towns, whilst limiting growth in rural areas and directing it towards more sustainable villages, also aiming to strictly control development in the open countryside.
- 9.5. Policy Villages 1 of the CLP 2015 provides a framework for housing growth in the rural areas of the district and groups villages into three separate categories (A, B and C). Bunkers Hill is a small cluster of approximately 40 dwellings with a small garden centre at the northern end and the former scrapyards at the southern end. There are no community facilities in terms of shops, schools, leisure facilities etc. Due to the nature of grouping of dwellings, it can best be described as a hamlet. In an appeal decision (ref: APP/C3105/A/13/2194858) on this site in 2012, the Inspector

commented '*Bunkers Hill is essentially a single row of about 20 houses isolated from any settlement and with few facilities of its own. While a bowls club there seems still to be operating, the adjacent sports and social club has closed. I do not consider that it should be treated as a settlement, rather sporadic development in the countryside.*' Your officers concur with the view taken by the planning Inspector that Bunkers Hill is not a village. This also demonstrates that housing proposals on this site have previously been dismissed at appeal because the principle of development was not accepted.

9.6. Notwithstanding the above, the application site is located to the south, away from the cluster of dwellings at Bunkers Hill and is therefore within the open countryside. Policy Villages 1 is permissive of proposals of this scale, only where they are "within the built-up limits of the village".

9.7. Saved Policy H18 of the CLP 1996 covers the issue over new dwellings in the countryside. Under this policy it is stated that *planning permission will only be granted for the construction of new dwellings beyond the built-up limits of settlements other than those identified under policy H1 when:*

*(i) it is essential for agriculture or other existing undertakings, or*

*(ii) the proposal meets the criteria set out in policy H6; and*

*(iii) the proposal would not conflict with other policies in this plan.*

9.8. Paragraph 80 of the NPPF states:

*'Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:*

*a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;'*

*b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*

*c) the development would re-use redundant or disused buildings and enhance its immediate setting;*

*d) the development would involve the subdivision of an existing residential building; or*

*e) the design is of exceptional quality, in that it:*

*– is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*

*– would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area.*

9.9. The application documents state that the proposed dwelling would be occupied by a worker related to the adjacent commercial site, but no information has been provided to demonstrate 'an essential need' for the dwelling. Security provision for a commercial unit would not constitute an 'essential need' for someone to be living on site as this need could be met through the installation of other security features and would certainly not require a dwelling of the size proposed. The commercial use is a general automotive workshop (Use Class B2) so is unlikely to require a worker on site

24hrs a day. Furthermore, the design of the dwelling with no first-floor windows on the southwest gable, its distance from the boundary and the boundary landscaping would offer limited natural surveillance of the neighbouring site.

- 9.10. It is considered that a 'rural worker' would be someone employed in a rural industry such as farming or forestry, rather than someone who simply works for a general employer that is in a rural location. Notwithstanding this, the NPPF requirement is for an 'essential need' and as set out above, this has not been demonstrated by the application.
- 9.11. With regards to criteria b-d of paragraph 80 of the NPPF, the proposal does not relate to a heritage asset, it does not involve the re-use of redundant or disused buildings, and it does not involve the sub-division of an existing property.
- 9.12. Criteria e requires the design to be '*truly outstanding*' and therefore, it needs to help raise the standards of design in rural areas and must '*Significantly enhance*' its setting. The standard for exceptional design under this requirement is extremely high and is intended as an exception. The proposed development would not be of exceptional design and does not meet the expectations of this criterion.
- 9.13. The application site is on land that was a former scrapyard and part of the site has consent for redevelopment for commercial uses. The parcel of land that makes up the application site is tidy. During the site visit, it was noted that some storage containers were located on the land which the applicant argued were a temporary requirement until the commercial units are completed. The site is not an eyesore and once the containers are removed, it would revert to being an open parcel of land. There are no clear environmental benefits to the proposal as there is no evidence to suggest the site requires remediation works if left undeveloped. There is no justifiable benefit of developing the site to 'tidy it up' and any unauthorised structures can be dealt with under the Council's enforcement powers. Approving the development for this reason would potentially set an unfortunate precedent for other comparable sites.
- 9.14. Paragraph 11 of the NPPF sets out a presumption in favour of sustainable development. The proposed location of the development is remote, and the needs of occupiers cannot be met without the need to travel (by private motor vehicle). Therefore, the proposal is not considered to represent 'sustainable development' because it fails to meet the economic objective or social objective of sustainable development as set out in the NPPF. It is also not clear if the proposal would meet the environmental objective due to the limited information submitted.
- 9.15. The Council has concluded that the proposal does not comprise minor development, infilling, or conversion within the built limits of a settlement. The proposal is therefore contrary to the Council's rural housing strategy, as outlined in Policies ESD1, BSC1 and Policy Villages 1 of the CLP 2015 and saved Policy H18 of the CLP 1996, which seeks to deliver the housing growth in the district in the most sustainable manner reducing the need to travel and the impact on climate change and Government guidance in the National Planning Policy Framework which seeks to encourage sustainable patterns of growth.

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

- 9.16. The Government attaches great importance to the design of the built environment within the NPPF. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. These aims are also echoed within Policy ESD15 of the CLP 2015 which looks to promote and support development of a high standard which contributes

positively to an area's character and identity by creating or reinforcing local distinctiveness.

- 9.17. Policy ESD15 of the CLP 2015 states that: "New development will be expected to complement and enhance the character of its context through sensitive siting, layout, and high-quality design. All new development will be required to meet high design standards." The Cherwell Residential Design Guide SPD also encourages development which is locally distinctive and the use of appropriate materials and detailing, but states that new development should avoid the creation of 'anywhere places' which do not respond to local context.
- 9.18. Saved Policy C28 of the CLP 1996 states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the context of that development. Further, saved Policy C30 of CLP 1996 states control will be exercised to ensure that all new housing development is compatible with the appearance, character, layout, scale, and density of existing dwellings in the vicinity.
- 9.19. Paragraph 130 of the NPPF states that planning policies and decision should ensure that developments:
- a) Will function and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
  - b) Are visually attractive as a result of good architecture, layout, and appropriate and effective landscaping;
  - c) Are sympathetic to local character and history including the surrounding built environment and landscape setting, while not preventing or discouraging innovation or change (such as increased densities);
  - d) Establish or maintain a strong sense of place, using arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
  - e) Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
  - f) Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 9.20. The application site is in a prominent position on the A4095 (Bunkers Hill). The proposed dwelling is a large, five bedroom detached two storey building. The front elevation of the property spans approximately 16.5m with a depth of approximately 13.8m. The design includes gable features on the front, a projecting gable to the rear, external chimney and a single storey, flat roof section. A detached garage is also proposed. The garage measures approximately 13.3m by 7m as is positioned along the northeast boundary with the gable facing towards the A4095 (front of the site).
- 9.21. The proposed dwelling would be large. However, it would be set back in the site away from the frontage. The design does include set down sections to create an appearance of subservience on some parts of the dwelling, which helps to reduce the overall appearance of a bulky building, especially on the front elevation. Boundary planting is shown on the plans which would soften the appearance of the development

from the main road. There are some design features such as the external chimney breast and projecting gables that do not enhance the overall design.

- 9.22. The materials and finishes are important part of the design. The submission lacks these details which makes it more difficult to understand the overall design approach. The application form suggests the use of brick and render. It is not ideal to assess the proposal without full details showing how materials are to be used. However, conditions could be used to require full details (showing how the materials will be used) and to provide samples of the proposed materials. This would ensure the type of material is acceptable and used in an appropriate way to enhance the overall design.
- 9.23. The bulk and massing of the garage would also result in a prominent building located along the northeast boundary of the site. The building would measure approximately 13.3m by 7m with a height of 6m. This is unfortunate, but as this is also set back within the site it would be viewed within the context of the scale of the new dwelling.
- 9.24. On balance, whilst there are some design features that do not enhance the design of the property, they are not so harmful to warrant a reason for refusal, particularly given the limited visibility of the site from the public domain. Therefore, the proposal is considered to accord with Policy ESD15 of the CLP 2015, saved Policies C28 and C30 of the CLP 1996 and Government guidance contained within the NPPF.

#### Residential amenity

- 9.25. Paragraph 130 of the NPPF states that planning decisions should create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 9.26. Policy ESD15 of the CLP 2015 states that new development proposals should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space.
- 9.27. 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 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'.
- 9.28. Saved Policy ENV1 of the CLP 1996 states that: "Development which is likely to cause detrimental levels of noise, vibration, smell, smoke, fumes or other type of environmental pollution will not normally be permitted."
- 9.29. The proposed dwelling would be located on a large plot with plenty of outdoor amenity space. The dwelling is generous in proportions providing adequately sized rooms which all have sufficiently sized windows to provide natural light. Overall, a sufficient level of amenity will be provided for the future occupiers of the dwelling.
- 9.30. The adjacent site to the south has consent for a commercial unit which is currently under construction. The building has consent for Use Class B2 (General Industry) which may not be compatible with a residential use due to the potential noise and disturbance.
- 9.31. The proposed dwelling would be situated approximately 16m from the boundary with the commercial site and approximately 30m from the consented building. Conditions restrict the hours of operation (Monday-Friday 8am to 6pm, Saturday 8:30am to

2:30pm, No working on Sundays/Bank Holidays), however there are no conditions to restrict noise levels or the type of B2 use. Conditions also however required to detail noise levels for any plant equipment to be used, which provides some regulation of noise on the site.

- 9.32. The proposed dwelling would be located a sufficient distance away from the existing commercial site. The Council's Environmental Health Officer has recommended conditions requiring details of acoustic insulation for the proposed dwelling, which should they consider would adequately mitigate against any noise from the adjacent site.
- 9.33. The proposed location of the dwelling is on the southern side of the site and would be approximately 36m away from the side of the nearest residential property which is located on the opposite side of Field View Lane. The proposed elevation facing the neighbouring property includes one first floor window that is shown to be obscurely glazed. Given the design and siting of the proposed dwelling, it would not have an adverse impact on neighbouring amenity in terms of overlooking or loss of outlook.
- 9.34. With regards to residential amenity, the proposal complies with, Policy ESD15 of the CLP 2015, Policies ENV1 and C30 of the CLP 1996 and Government guidance contained within the National Planning Policy Framework.

#### Highway safety and accessibility

- 9.35. Policy ESD15 of the CLP 2015 states, amongst other matters, that new development proposals should: "Be designed to deliver high quality safe...places to live and work in."
- 9.36. Paragraph 110 of the NPPF advises that in assessing specific applications for development, it should be ensured that:
- *appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
  - *safe and suitable access to the site can be achieved for all users; and*
  - *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.*
- 9.37. Both Policies ESD15 and SLE4 of the CLP 2015 reflect the provisions and aims of the NPPF. Policy ESD15 of the CLP 2015 states that: "New development proposals should be designed to deliver high quality safe, attractive, durable, and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions"; whilst Policy SLE4 states that: "*All development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development, and which have a severe traffic impact will not be supported.*"
- 9.38. The Oxfordshire County Council Parking Standards for New Developments sets parking standards for villages and hamlets within Oxfordshire. The standards outline a 5+ bedroom property should benefit from "*Up to 3 spaces per dwelling*". As such, the proposal represents an over-provision of parking, which is likely to result in the dwelling being car dependent. Whilst this is a concern, it is not considered to be so harmful as to justify a reason to refuse the application on this basis, as this would not result in a detrimental impact to highway or pedestrian safety.

- 9.39. The proposal includes a new vehicle access from the A4095, which would provide good visibility in both directions. The site is large and sufficient space is provided for the manoeuvring of vehicles to allow them to enter and leave the site in a forward gear.
- 9.40. The Local Highway Authority Officer raises no objections to the proposal but has requested planning conditions. The planning conditions relate to the specification details for the parking area and the proposed access to ensure they are constructed with appropriate materials and retained. The proposed access would also be subject to a road agreement with the Local Highway Authority.
- 9.41. Subject to the conditions, the proposal would not be detrimental to highway and pedestrian safety or result in any significant impacts of the highway network and thus compliant with local and national planning policies in this regard.

### Trees

- 9.42. Policy ESD10 of the CLP 2015 states *'the protection of trees will be encouraged, with an aim to increase the number of trees in the'*.
- 9.43. The application proposes the removal of three trees ((two U category and 1 C category) along the southeastern boundary of the site. This area is a belt of trees and vegetation that is positioned between the site and the highway. The applicant has confirmed that their ownership includes this area up to the edge of the pavement.
- 9.44. An arboricultural impact assessment has been submitted with the application. It sets out the proposed removal of the trees and identifies the need for general maintenance of the existing trees around the site; detailing the necessary works. The three trees to be removed pose a constraint to the development and would need to be removed to facilitate the vehicular access from the A4095. The report concludes that these are poor quality trees and could be replaced with re-planting elsewhere on the site. The trees to be retained are situated around the perimeter and could be adequately protected during the construction of the development.
- 9.45. The Council's Arboricultural Officer has raised no objections to the proposal. Most of the trees on site are Category C trees and have an inherently low life span. The proposed management of trees of the site is in line with BS5837 and the proposal does not impact on high quality trees (with only one identified on the site). The Arboricultural Officer concludes that there is an opportunity to increase diverse tree cover within the site.
- 9.46. The removal of the trees to create a vehicle access is acceptable as the trees are low quality and have a limited lifespan. Replacement tree planting would compensate for the removed trees and provide an opportunity to increase the diversity of tree species on the site. The proposal would not have a detrimental impact on trees and complies with Policy ESD10 of the CLP 2015 in this regard.

### Ecology

- 9.47. 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.

- 9.48. 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.
- 9.49. Paragraph 174 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.
- 9.50. Paragraph 180 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.
- 9.51. 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.
- 9.52. The application is supported by a detailed protected species survey which concluded that the existing site has a low baseline for ecology and proposed development would not be detrimental. The survey identifies mitigation and enhancement measures and suggests a CEMP is prepared for the site.
- 9.53. The Council's Ecology Officer has advised the site is in an ecologically sensitive area, however the site itself has a relatively low ecological value due to the surfacing (apart from the tree lines). The advice states the impacts on the Site of Special Scientific Interest (SSSI) and Local Wildlife Site (LWS) are likely to be minimal.
- 9.54. The recommendations within the Preliminary Ecological Appraisal set out some measures for biodiversity enhancement which should provide some net gain on site. These are at a preliminary stage and would need more details submitting via condition.
- 9.55. Officers are satisfied, on the basis of the advice from the Council's Ecology Officer, 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 and Species Regulations 2017, have been met and discharged.

#### Other Matters

##### *Climate change and sustainability*

- 9.56. Policy ESD1 of the CLP 2015 states that '*measures will be taken to mitigate the impact of development within the District on climate change*'. It sets out several considerations when incorporating suitable adaptation measures in new developments.

- 9.57. Policy ESD3 of the CLP 2015 goes on to require all new development to incorporate sustainable design and construction. There is also a requirement for new dwellings to achieve a water efficiency limit of 110 litres/person/day.
- 9.58. Policy ESD5 of the CLP 2015 supports the use of renewable and low carbon energy provision in developments.
- 9.59. The submitted plans show the inclusion of solar panels on the roof of the garage building. The supporting statement also suggests the dwelling would be designed to incorporate high standards of internal insulation and heating could be by way of air-source heat pump.
- 9.60. The information submitted is limited but this could be conditioned to ensure sustainability measures are incorporated into the building and that the required water efficiency levels are met. There is also the potential to significantly increase the provision of solar energy by incorporating some in the roof of the main dwelling.

#### *Contaminated land*

- 9.61. Policy ENV12 of the CLP 1996 states: 'Development on land which is known or suspected to be contaminated will only be permitted if:
- (i) Adequate measures can be taken to remove any threat of contamination to future occupiers of the site
  - (ii) The development is not likely to result in contamination of surface or underground water resources
  - (iii) The proposed use does not conflict with the other policies in the plan
- 9.62. The submitted geo-environmental desk survey has identified potentially contaminated land on the site. This does not pose a current issue because the site is not in a residential use, however, the ground would be disturbed during construction work. Further surveys and remedial work would be required to ensure the site was safe for future occupants of a residential dwelling.
- 9.63. The Council's Environmental Health officer is satisfied with the submitted information and advises that these matters could be dealt with via condition to ensure the appropriate surveys are submitted and suitable mitigation/remedial works are carried out.

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

- 10.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social, and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.
- 10.2. This application seeks planning permission for a single dwelling on this greenfield site. The site is located outside the built-up limits of a settlement, is visually prominent, and as such is considered to be in an area of open countryside. The proposal therefore conflicts with Policy H18 of the CLP 1996 and Policy Villages 1 of the CLP 2015. There is no exceptional circumstances case provided with this application to warrant an exception to the adopted Policy and with a healthy provision of windfall sites in rural areas the proposal fails to comply with the Policy. The principle of the development is therefore not considered acceptable.

- 10.3. There are no significant issues with design, neighbouring amenity, trees, ecology, or highways, subject to the imposition of conditions requested by technical consultees.
- 10.4. It is concluded that the benefits of one additional house to the Council's housing land supply and to the local economy and construction are significantly and demonstrably outweighed by the proposal's conflict with the Council's housing strategy in particular Policies ESD1, BSC1 and Villages 1 of the CLP 2015 and saved Policy H18 of the CLP 1996, and Government guidance contained within the NPPF. The proposal would not result in a significant environmental improvement of the site, with the Council having the ability to control the existing unauthorised structures with their enforcement powers. The application is therefore recommended for refusal.

## **11. RECOMMENDATION**

### **REFUSAL FOR THE REASONS SET OUT BELOW:**

1. The proposal constitutes residential development in the open countryside, beyond the built-up limits of a settlement, for which it has not been demonstrated that there is an essential need. The dwelling would therefore be an unjustified and unsustainable form of development. The proposed development is therefore contrary to Policies ESD1, BSC1 and Villages 1 of the Cherwell Local Plan 2011-2031 Part 1, Policy H18 of Cherwell Local Plan 1996, and Government guidance within the National Planning Policy Framework.

CASE OFFICER: Rebekah Morgan