

**Case Officer:** Shona King

**Applicant:** Talbot Homes

**Proposal:** Development of 19no dwellings

**Ward:** Cropredy, Sibfords And Wroxton

**Councillors:** Councillor Brant, Councillor Chapman and Councillor Webb

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

**Expiry Date:** 17 January 2025

**Committee Date:** 31 July 2025

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

**MAIN REPORT**

**1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site is located to the north of Main Street in Great Bourton. The site is bounded to the south and east by residential properties, and to the west by a commercial operation. To the north of the site is a line of mature vegetation separating the site from a defined Public Right of Way to the north of the vegetation. The site is currently a field which has a relatively flat topography. There are several protected trees in the boundaries of the site.

**2. CONSTRAINTS**

- 2.1. Public Right of Way to rear of site.
- 2.2. Trees subject to preservation orders to northern and eastern boundary, and at road frontage
- 2.3. Residential to east and south of the site, commercial to west.
- 2.4. Open countryside to north.

**3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. Full planning permission is sought for the erection of 19 dwellings on the site. Twelve are to be market houses with a mix of 7 x 3 bed dwellings, 3 x 4 bed and 2 x 5 bed houses. 7 are to be affordable units with a mix of 2 x 1 bed flats and 5 x 2 bed houses.
- 3.2. Amended plans have been submitted seeking to overcome concerns regarding the layout of the scheme, the design of the buildings, the potential impact on neighbouring properties, the visual impact of the development and the impact on protected trees.

Additional information has also been provided seeking to overcome drainage concerns.

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

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

23/01929/PIP – Application for permission in principle for the development of between 8 and 9 houses – Approved

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

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

23/00972/PREAPP - Proposed development of 9 No dwellings on land to the north of Main Street, Great Bourton within the built limits of the village

5.2. The pre-application advice concluded the principle of housing in this location was acceptable on the basis that the site was within the built-up limits of the village. However, there would need to be a mix of dwelling sizes to include 1 and 2 bed dwellings as well as 3-4 beds. In addition, it would need to be demonstrated that 11 or more dwellings could not be delivered on the site and thereby allow for a proportion of affordable housing. The pre-application submission proposals did not make effective use of land and therefore conflicted with Policy BSC2 of the Cherwell Local Plan 2015. A greater number of dwellings proposed on the site would be expected.

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

6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **13 May 2025**, although comments received after this date and before finalising this report have also been taken into account.

6.2. There have been 26 letters of objection received, the comments raised by third parties are summarised as follows:

- Principle of development – greenfield site; not sustainable development; no facilities in the village; infrequent bus service – reliance on car use; unsuitable for cycling to Banbury/Cropredy; lack of pavement to Banbury
- Need – houses not needed
- Design – housing mix/size; scale development - 9 dwellings more appropriate; not in keeping with the village; density; concerns over the layout and the design of the dwellings; oversized affordable houses; the affordable housing requirements need to be met; building materials
- Impact on the character of the area – urbanising countryside; impact on street frontage of Mole End
- Residential amenity – impact on privacy of existing houses; noise and disturbance to existing residents;

- Highway safety – lack of visitor parking; increase in traffic movements in the village; pedestrian safety; traffic during construction
- Infrastructure impacts – impact on infrastructure; impact on sewage system; surgery in Cropredy at capacity;
- Other matters – Increase in light pollution; impact on wildlife; biodiversity net gain of the development; management of communal areas; inaccuracies in application documents
- Non-planning matters - Loss of value if existing dwellings

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.

7.2. THE BOURTONS PARISH COUNCIL: Original comments – **Objects** for the following reasons –

- Inaccuracies in application – relating to services/facilities available in the village and sustainability
- Housing density and mix - inappropriate density for the village and housing mix doesn't reflect local need
- 5 year land supply
- site layout impact on character of the immediate area
- Does not reflect the character of either surrounding houses, the local ecology or the wider village
- Access, on-site parking, on street parking
- Intrusion & visual impact
- Impact on existing dwellings
- Impact on wildlife and habitat
- Improvement of access to the countryside
- Style and design of properties & building materials
- Waste water processing capacity
- Highway safety including on-street parking around the site entrance from events at the Community Hall
- S106 contributions

7.3. Comments on first amended scheme – **Objects** for the following reasons but accepts that significant changes have been made –

- Sewage treatment capacity – guidance required as to the implications and impact of the feasibility of the application and timing due to the revised comments of Thames Water
- Housing density - 30/hectare unacceptable in this location the proposed site will look congested, cramped, and completely out-of-character with its immediate surroundings and the wider village where no housing has been built at this density
- Parking – concern regarding parking provision within the site and the lack of visitor parking leading to parking on pavements or access road leading to highway safety issues. Above the minimum number of spaces should be provided.
- Ecology – Arboricultural report doesn't address concerns that a number of mature trees are being removed and hedgerows within private gardens.
- Access to the ProW
- Housing Mix – needs to meet local requirements
- Site layout – layout hasn't addressed any concerns. Out of character with a rural village
- Adoption of access road and maintenance
- Building materials – reference to local materials but concrete tiles need to be changed to a more suitable/acceptable alternative in keeping with surrounding properties.

7.4. Comments on second amended scheme – **Objects** for the following reasons but accepts that significant changes have been made –

- The impact of the revised layout of the affordable homes.
- Insufficient onsite parking to allow for the anticipated level of car ownership of home owners and parking for visitors.
- The location of Plot 7 remains very close to the boundary fence on the right of the site creating serious overlooking concerns with the adjacent house on Manor Close.
- Whilst the Principle of development on this site is accepted the PC remains very concerned about the housing density as this is completely out-of-scale with the surrounding area, and represents the highest density in Great Bourton, this making the development visually dominant in an area of the village where densities are very much lower.
- Pleased to note that the mix of affordable housing now meets the CDC target, but we remain concerned about the significant proportion of 4 & 5 bed dwellings, which has not changed, albeit we recognise the reduction in the number of 5 bed properties.

- Requirement of condition from Thames Water and the impact of this on the development
- 7.5. Comments on third amended scheme – **Objects** for the following reasons but accepts that some changes have been made and pleased that the housing mix on the site has been significantly changed reducing the number of 4 & 5 bed houses and increasing the number 2 bedroom properties which is what is required by existing families living in Great Bourton -
- Insufficient on-site parking
  - The visual intrusion and proximity caused by Plot 7 has NOT been addressed in any way
  - The proposed housing density remains out of scale with the surrounding area and the Parish
  - Remain concerned about the detail of the proposed s106 agreement and the contribution towards the improvement of public transport serving Great Bourton
- 7.6. Comments on Officer Report prepared for the 3 July Committee meeting – Raising concerns regarding:
- a) The condition required by Thames Water – seeking clarification that the reference within the report to water treatment infrastructure capacity relates specifically to surface water drainage as it is important that there is no possibility for the responsibility of either the developer or Thames Water to avoid their responsibilities for managing waste water and continuing the frequent and illegal discharge of untreated effluent from the Cropredy works.
  - b) Impact on 6 Manor Close due to the proximity of Plot 7:
    - space standards aren't met as there is only 8.475m between the dwellings
    - The impact of the actual proposal should be considered not a previous one
    - impact on No 6 by reason of closeness, overlooking and potential for visual intrusion into the windows and garden of 6 Manor Close
    - Clarification sought on the minimum distances between neighbouring properties and how the revised layout meets these
    - Additional planting within the garden of Plot 7 would create a further visual intrusion for 6 Manor Close and be unacceptable. This concern requires further investigation and clarity regarding the suggest additional planting.
  - c) Seeks clarification that the proposal that a s106 funding contribution of £50,000 be included for the creation of bus stops and supporting infrastructure on the A423 would be sufficient to provide the required laybys, bus stops and crossing places. Also seeks confirmation that OCC is happy with this sum and would proceed even if the costs prove to be higher.
- 7.7. Comments sent to Members prior to Planning Committee on 3 July acknowledging that the application site is within the settlement boundary and that the Council does not currently have a 5 year housing land supply, but raises concerns regarding:

- Density of the development
- S106 contribution towards transport, £50,000 - not sufficient to provide bus stop laybys, etc
- Insufficient parking spaces for residents and visitors leading to parking on access roads
- Capability of Thames Water to manage the services for the site
- Impact on neighbouring properties

7.8. OCC HIGHWAYS: Original comments: Objected for the following reasons - Width improvement of footway along Main Street either side of the access is required, a crossing between the footway on the northern side to the southern side of Main Street is required.

In addition a legal agreement is required with an obligation to enter into a s278 agreement to mitigate the impact of the development including the above crossing and footway improvements and the provision of a pair of layby's along the A423 Southam Road with appropriate passenger waiting space (hardstanding), bus stop poles to OCC specification, connecting footways and an appropriate crossing point, with works contained within the existing highway boundary. A planning condition is also recommended relating to a provision of cycle parking facilities.

7.9. Interim comments - No objection subject to a s106 obligation to provide a pair of bus stops within laybys along the A423 Southam Road to include bus stop poles and connecting footways and appropriate crossing facilities.

7.10. Final comments – **No objection** subject to s106 contributions towards a pair of bus stops with associated hardstanding and a suitable crossing along the A423 Southam Road and an obligation to enter into a s278 agreement to secure mitigation/improvement works.

7.11. LEAD LOCAL FLOOD AUTHORITY (OCC): Original comments – Objects for the following reasons – A summary of the drainage strategy needs to be provided and additional testing and monitoring is required.

7.12. Interim comments – Objects for the following reason - Groundwater levels must be recorded during the winter period, to ensure suitable soakaway design otherwise an alternative viable drainage strategy must be put forward which would allow for further ground investigations by condition.

7.13. Final comments – **No objections** subject to conditions relating to surface water drainage and SuDS

7.14. OCC ARCHAEOLOGY: **Comments** - The proposal lies in an area of archaeological interest and potential and recommends conditions relating to a staged programme of archaeological investigation.

7.15. CDC ARBORICULTURAL OFFICER: Original comments – Objects for the following reasons – the impact of the development on the protected within and adjacent to the site, future pressure on the trees due to the proximity of the trees to the development, impact on the trees during construction. The proposals will not allow for the safe long-term retention of existing trees both on and off the site.

- 7.16. Final **comments** - an update of the arboricultural impact assessment showing the new proposals in conjunction with the trees is needed. If there are to be pathways/access roads within the RPA of the trees then we need a detailed method statement outlining how these will be installed without harming the trees. All access roads and pathways should be constructed using no dig methods and surfaces should be permeable. All boundary treatments should avoid damaging any trees and should follow an arboricultural method statement the details of which will need to be submitted and suitable for the particular boundary treatment to be used.
- 7.17. CDC BUILDING CONTROL: A full plans building regulation application will be required
- 7.18. CDC ECOLOGIST: Original comments - Objects for the following reasons – further justification is required regarding the classification of grassland, the biodiversity net gain metric needs updating along with the submission of an assessment of the condition of the habitat.
- 7.19. Final **comments** - Proportionate justification has been provided in the Ecology Response dated 13.11.24; The BNG metric has been provided concluding that the Development would result in a 34.15% loss in habitats and 2.19% loss in hedgerows which means the Development's requirement to provide 10% net gain has not been met. However, the applicant proposes to purchase units to offset the loss. An automatic Biodiversity Gain Plan condition would be applied where the applicant would need to demonstrate how they are providing 10% net gain across habitats and hedgerows.
- 7.20. CDC ENVIRONMENTAL PROTECTION: **No objections** subject to conditions relating to preparation of a Construction Environment Management Plan (CEMP), contaminated land, and lighting
- 7.21. CDC LANDSCAPE SERVICES: No comment to date
- 7.22. CDC PLANNING POLICY: **No objection** to the principle of the development
- 7.23. CDC RECREATION AND LEISURE: Contributions are sought towards community hall facilities, outdoor and indoor sport provision, and public realm/public art
- 7.24. CDC STRATEGIC HOUSING: **Supports** this proposal in principle; however, the affordable housing needs to be better integrated with the market housing and the sizes and tenures need to correspond with the following mix - Social Rent (total 5 units) 2 x 2-bed, 4-person houses: 25-30% 2 x 3-bed, 5-person houses: 30-35% 1 x 4-bed, 7-person house: 15-20% Intermediate/First Homes (total 2 units) 1 x 2-bed 4-person house 1 x 3-bed 5-person house.
- 7.25. CDC URBAN DESIGNER: Original comments - Objects – the scheme doesn't reflect national and local design guidance and policy. The scheme requires a strong design concept that addresses the character of the site and immediate design context. The masterplan and street scenes should address the adjacent footpath and wider countryside and village context. Further design and analysis is required to determine and justify an appropriate number and mix of dwellings.
- 7.26. Final **comments** - The overall layout is acceptable; however, the following information/amendments are necessary. • Provide a direct footpath link between Main Street and the public footpath. • Review the use and character of the space to the side of plot 8 and 15. • Provide elevations for Plot 1 and 2. Conditions will be required to cover materials and detailing.

7.27. CDC WASTE AND RECYCLING: No comment to date

7.28. THAMES WATER: Thames Water has identified an inability of the existing sewage treatment works infrastructure to accommodate the needs of the development proposal in terms of waste and request a condition that restricts occupancy of the development until either all sewage works upgrades required to accommodate the additional flows from the development have been completed; or - a development and infrastructure phasing plan has been agreed with the Local Authority in consultation with Thames Water to allow development to be occupied. With respect to surface water drainage and water network and water treatment infrastructure capacity there are no objections to the development.

7.29. THAMES VALLEY POLICE: No comment to date

7.30. NHS BUCKINGHAMSHIRE, OXFORDSHIRE AND BERKSHIRE WEST INTEGRATED CARE BOARD (ICB) – **objects** - lack of any primary care mitigations to be secured in the proposed development. They are seeking a financial contribution of £16,416 towards either the potential extension project to reconfigure or to extend the premise of Woodlands Surgery or the proposed GP facility of Cropredy Surgery.

7.30 THE APPLICANT has submitted an email stating that “The Bourtons Parish Council response incorrectly states that *“The visual intrusion and proximity caused by Plot 7 has NOT been addressed in any way”*. This is categorically untrue, and we are pleased that the committee report addresses this point.”

A summary of the most up to date responses from professional / technical consultees, confirming no objections or comments to the updated proposals was included with the representation from the agent. This sets out that the following consultees:

- a. Have raised no objections to the amended proposals subject to conditions or s106 contributions:
  - OCC Highways
  - Lead Local Flood Authority (OCC)
  - CDC Arboricultural Officer
  - CDC Ecologist
  - CDC Environmental Protection
  - CDC Planning Policy
  - Thames Water
  - CDC Recreation and Leisure
  - OCC Archaeology
  - CDC Building Control
- b. Support the application in principle
  - CDC Strategic Housing – support the application proposal in principle but comments that the affordable housing needs to be better integrated with the market housing and the sizes and tenures need to correspond with the following mix - Social Rent (total 5 units) 2 x 2-bed, 4-person houses: 25-30% 2 x 3-bed, 5-person houses: 30-35% 1 x 4-bed, 7- person house: 15-20% Intermediate/First Homes (total 2 units) 1 x 2-bed 4- person house 1 x 3-bed 5-person house
- c. Have made no comment to date on the revised application
  - CDC Waste and Recycling
  - Thames Valley Police
  - CDC Landscape Services



The applicant also confirms their agreement to the following pre-commencement conditions as set out in the report and the financial contribution of £16416 towards primary care:

- 3 – Construction Environment Management Plan
- 4 – Remediation
- 5 and 6 – Archaeology
- 7 – Drainage
- 9 – Arboricultural Method Statement

## **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 – Effective and Efficient Use of Land
- BSC3 – Affordable Housing
- BSC4 – Housing Mix
- BSC7 – Meeting Education Needs
- BSC8 – Securing health and wellbeing
- 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
- ESD4 – Decentralised Energy Systems
- ESD5 – Renewable Energy
- ESD6 – Sustainable Flood Risk Management
- ESD7 – Sustainable Drainage Systems
- ESD8 – Water resources
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 – Local Landscape Protection and Enhancement
- ESD15 – The Character of the Built and Historic Environment
- Villages 1 – Village Categorisation
- Villages 2 – Distribution Growth Across the Rural Areas
- Villages 4 – Meeting the Need for Open Space, Sport and Recreation
- INF1 – Infrastructure

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

- C28 – Layout, design and external appearance of new development
- C30 – Design of new residential development
- ENV1 – Environmental pollution
- ENV12 – Contaminated land

### 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 Residential Design Guide (2018)
- Cherwell Annual Monitoring Report (2024 AMR) (February 2025)
- 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
- Residential amenity
- Ecology impact
- Highway safety
- Drainage/Sewerage
- Sustainability and Energy Efficiency
- Effect on Infrastructure and Planning Obligations

#### Principle of Development

##### *Policy Context*

- 9.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the District comprises the adopted Cherwell Local Plan 2011-2031 ('CLP 2015') and the saved policies of the Cherwell Local Plan 1996.
- 9.3. The CLP 2015 seeks to allocate sufficient land to meet District-wide housing needs. The overall housing strategy is to focus strategic housing growth at the towns of Banbury and Bicester and a small number of strategic sites outside of these towns. This is outlined in Policy BSC1 of the CLP 2015. With regards to villages, the plan notes that the intention is to protect and enhance the services, facilities, landscapes and natural and historic built environments of the villages and rural areas. It does, however, advise that there is a need within the rural areas to meet local and District wide needs and therefore allows for an appropriate and proportionate amount of growth in the rural areas.

- 9.4. Strategic Objective SO7 of CLP 2015 refers to the need to meet the housing needs of all sections of Cherwell's Communities, particularly the need to house an ageing population.
- 9.5. Policy ESD1 of CLP 2015 identifies the measures to be taken to mitigate the impact of development within the District on climate change. This includes distributing growth to the most sustainable locations as defined in the Local Plan.
- 9.6. Policies Villages 1 (PV1) of CLP 2015 categorises the villages in Cherwell, with Great Bourton as a Category B Village. The categorisation of villages was informed by a defined range of sustainability criteria as they applied in 2014-15 (CLP 2015 para C.255). PV1 states that proposals for residential development within the built up limits of villages will be considered based on their categorisation. As a Category B village Great Bourton is identified by the Local Plan as being a suitable settlement for minor development, infilling and conversions.
- 9.7. Policy Villages 2 (PV2) of the CLP 2015 sets out the distribution of growth across the rural area. It states that a total of 750 homes will be delivered at Category A Villages.
- 9.8. Saved Policy H18 of the CLP 1996 refers to the development of dwellings beyond the built-up limits of settlements.
- 9.9. The CLP 2015 Policies Map does not contain settlement boundaries for settlements within the District.
- 9.10. The published Cherwell District Council latest Annual Monitoring Report dated February 2025 confirms that Cherwell District Council can only demonstrate a housing land supply of 2.3 years. PV1 and PV2 along with H18 and BSC1 cannot therefore be considered up-to-date. Policy PSD1 of the Cherwell Local Plan and the paragraph 11 (d) of the NPPF which set out the presumption in favour of sustainable development are therefore engaged.
- 9.11. As Cherwell District Council cannot demonstrate a five year housing land supply, the presumption in favour of sustainable development (paragraph 11d of the NPPF) applies.
- 9.12. Paragraph 11 (d) of the NPPF states where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, planning permission should be granted unless:
  - i) The application of policies in this Framework that protect areas of assets of particular importance provides a strong reason for refusing the development proposed; or
  - ii) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well designed places and providing affordable homes, individually or in combination
- 9.13. The key consideration pertinent to the principle of development is therefore whether there are any adverse impacts that would significantly and demonstrably outweigh the benefits.
- 9.14. The recently published National Planning Policy Framework (2024) states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is

needed, that the needs of grounds with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet an area's identified housing need, including with an appropriate mix of housing types for the local community.

- 9.15. The reference to the need to significantly boost the supply of housing aligns with the government's objective of building 1.5 million homes over the next 5 years as set out in the Building the Homes we Need Written Ministerial Statement dated December 2024. In order to achieve this objective it is clear that sites in sustainable locations should be considered for development.
- 9.16. Whilst limited weight can be attributed to the Regulation 19 Draft Cherwell Local Plan (DCLP) at this stage as it has not been tested at examination, Policy SP1 of the draft plan continues to identify Great Bourton as a Category B Village Settlement.

#### *Assessment*

- 9.17. The 2024 Annual Monitoring Report confirms that the LPA can only demonstrate a 2.3 year housing land supply at present, in light of which paragraph 11(d) of the NPPF is engaged.
- 9.18. Engagement of the 'tilted balance' under paragraph 11(d) does not mean that the Local Development Plan is set aside, as the assessment of a proposal against adopted LDP Policies can facilitate the overall assessment of the benefits and adverse impacts of a scheme in relation to the NPPF as a whole, but it does mean that the relevant local plan policies i.e. those relating to housing are afforded less weight, in particular, the numerical elements of those policies.
- 9.19. The principle of residential development in Great Bourton is assessed against Policy Villages 1 in the CLP 2015. As noted above, Great Bourton is a Category B village. Within Category B villages, residential development will be restricted to the conversion of non-residential buildings, infilling and minor development comprising small groups of dwellings on sites within the built-up area of the settlement.
- 9.20. The development plan does not define the built-up limits of villages, and this is assessed on a case by case basis. The principle of development on the southern part of this site was established under the Permission in Principle application, 23/01929/PIP. This Permission in Principle also established the location of the access to serve the development. Considering the site's position, bounded by development to the east, south and west, and with the defined mature vegetation approximately 59m to the north, the southern part of the site was considered to be within the built-up limits of the village.
- 9.21. While the concerns of third parties are noted, it is important to stress that the 'Permission in Principle development' could be carried out and that it is likely a further application for the development of the northern part of the site for c.6-10 houses would then be submitted and would be difficult to resist. The benefits of the whole site coming forward at the same time is a more efficient and effective use of land and a better designed, more cohesive form of development.
- 9.22. Paragraph C.262 of the CLP 2015 states that in assessing whether proposals in villages are acceptable, regard will be had for a number of criteria including the site's context within the existing built environment and whether the development is in keeping with the character and form of the village. The other criteria are the size of the village and the level of service provision, its local landscape setting, and careful consideration of the appropriate scale of the development. Given the Permission in

Principle for up to 9 houses on part of the site, the relationship of the wider site with the surrounding built form and, importantly, the strong defined northern boundary, it is considered that the development of the additional area of land would not be viewed as an extension of the built form into open countryside.

### *Conclusion*

- 9.23. The provision of residential development on this site would assist in meeting the overall housing requirements of the district and would contribute to the provision of affordable housing in a sustainable location. With the inclusion of the additional land over and above that granted Permission in Principle, the currently proposed development makes a more efficient and effective use of land and a better design and layout of development.
- 9.24. The latest housing supply figure for Cherwell District is calculated at significantly less than 5 years (2.3 years supply). As such the 'tilted balance' is engaged and there is a presumption in favour of sustainable development. While the site is not a particularly sustainable location in terms of access to key facilities, it relates well to the existing built form, is considered to be within the built limits of the settlement and regard must be had to the Permission in Principle for the southern part of the site. Whilst there may be some impact upon the locality through the development of this greenfield site, it is considered that the harmful impact can be mitigated.

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

#### *Policy context*

- 9.25. 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.*
- 9.26. 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.
- 9.27 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.

#### *Assessment*

- 9.28. The application proposals have been amended since originally submitted. The site area and number of houses along with the access from Main Street have remained unchanged; however, the internal layout of the site has changed, as well as the designs and sizes of the houses. A distinct access onto the PRow that runs along the northern boundary has also been provided. A main access road leads from Main Street into the site and smaller roads lead off this to provide access to the dwellings. The layout now provides for a frontage onto the main estate road and the smaller access roads. It is considered that the amended layout is acceptable, and that the

proposed number of dwellings can be accommodated within the site without resulting in a cramped form of development inappropriate to its setting.

- 9.29. The dwellings have also been moved away from the northern boundary with the existing hedge line within public space rather than private garden areas. With their retention, and seen in views from the north in the context of built form to the west and east of the site, it is considered that the amended proposal would not adversely affect the wider landscape setting of the village. The dwellings are also proposed to face onto the PRoW giving some surveillance to this.
- 9.30. Built form has been repositioned outside of the root protection areas of the main trees some of which are protected by preservation orders. The trees proposed for removal are not considered to be of high public amenity value and it has been shown in the arboricultural statement that development can be carried out in such a way to limit harm on the trees to be retained. The Council's Arboricultural Officer has raised no significant concerns subject to the adherence to an arboricultural method statement which is conditioned below.
- 9.31. The proposal now includes the use of natural stone for the dwellings fronting onto the main access and those facing the northern boundary of the site. The remainder of the dwellings are to be constructed using a red brick. Slate is proposed for the roofs rather than concrete tiles. The proposed dwellings are considered to be of acceptable designs. A stone wall along with the dwellings provides for a continuous strong building line along the eastern side of the of the main access road

#### *Conclusion*

- 9.32. Overall, Officers consider that the layout and design of the proposal now represents an acceptable scheme that will be constructed from an appropriate palette of materials and proposes acceptable house types in design terms. The proposal is therefore considered to represent good design and comply with Policy ESD15 of the CLP 2015 and the NPPF.

#### Residential amenity

- 9.33 Policy ESD15 advises of the need for new development to consider the amenity of both existing and future development and this reflects the Core Principle of the Framework, which confirms the need for a good standard of amenity for all existing and future occupants of land and buildings to be secured.
- 9.34 Saved Policy C30 of the CLP 1996 requires that new housing development provides standards of amenity and privacy acceptable to the local planning authority.
- 9.35 The proposed scheme as amended is not considered to result in any significant detriment to the living amenities of the neighbouring properties by reason of overlooking or overshadowing. The proposal has been amended to mitigate overlooking between dwellings and now meets the Council's adopted space standards with at least 22m between habitable room windows of the existing and proposed dwellings. It is proposed to retain existing intervening hedges between the application and boundaries of the existing dwellings and this would mitigate any impact further.
- 9.36 It is very important to note that, if the Permission In Principle scheme was to be taken forward, development would be located in the southern part of the site resulting in dwellings adjacent to the southern and eastern boundaries in the area where they are located under this scheme. As such the principle of development here has been established and the impact on neighbours to the south and east of the site would be

the same or very similar whichever of the two schemes was developed. This is a material consideration in the determination of this application.

- 9.37 Concerns have been raised by the owner of No. 6 Manor Close regarding the potential impact on their property and these concerns are shared by the Parish Council. The proposal has been amended removing any side facing windows in Plot 7 and the terrace has been moved further from the shared boundary with No. 6 Manor Close. There are no minimum standards between non-habitable rooms at ground floor level and first floor habitable room windows must not be within 7m of neighbouring property. The adopted Residential Design Guide sets out that there should be a distance of 14m between a rear elevation and a two storey side elevation. However, while important, this is guidance to help decision makers apply policy, and each development proposal needs to be considered on its merits having due regard to the individual circumstances. In this instance, Plot 7 and No. 6 Manor Close only intersect for less than half of the rear elevation of No.6 and the first floor windows facing Plot 7 serve a bathroom and landing.
- 9.38 Whilst there is a path within the site along the shared boundary this is to access the rear garden of Plot 7 only i.e. would not be publicly accessed. As such it is considered that the development would not result in any significant harm to the living amenities of No. 6 Manor Close.
- 9.39 There is more likely to be an impact from No. 6 Manor Close on future occupiers rather than the other way around, i.e. the rear garden of Plot 7 has the potential to be overlooked by two bedroom windows. However, the windows in No.6 Manor Close that would have a view of the side elevation of Plot 7 are a bathroom window and a secondary window to a landing. In addition, the existing hedge would be retained between the properties and the garden to Plot 7 is large enough for additional planting to be provided to mitigate any overlooking from these windows.
- 9.40 It is considered therefore that the proposal provides adequate levels of amenity for the existing and future residents and complies with Policy ESD15 of the CLP 2015, Saved Policy C30 of the CLP 1996 and the NPPF.

#### Ecology Impact

##### *Legislative context*

- 9.41. 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.
- 9.42. 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.
- 9.43. 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.

9.44. 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:

- 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?
- That there is no satisfactory alternative.
- 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.

9.45. 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, pipelines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

#### *Policy Context*

9.46. Paragraph 187 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.

9.47. Paragraph 193 states that when determining planning applications, local planning authorities (LPAs) should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

9.48. Paragraph 198 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.

9.49. 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.

- 9.50. Policy ESD11 of the CLP 2015 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.
- 9.51. 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.
- 9.52. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that LPAs should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

#### *Assessment*

- 9.53. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:

- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development

It also states that LPAs can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
- an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')

- 9.54. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard there are a number of mature trees and hedgerows within and adjacent the site, along with two existing buildings that are to be demolished and therefore the site has the potential to be suitable habitat for bats, breeding birds, badgers, reptiles, Great Crested Newts and invertebrates.
- 9.55. In order for the LPA to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, LPAs must firstly assess whether an offence under the Regulations is likely to be committed. If so, the LPA should then consider whether Natural England would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.
- 9.56. 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.

- 9.57. The application is supported by a detailed protected species survey, which concluded that whilst the garage to be demolished has a moderate potential for roosting bats there was no evidence present. The site offers suitable foraging and commuting habitat for bats in the form of its hedgerows, trees, and grassland. There was no evidence of badger activity on the site or immediate adjacent habitat but the site has suitability for sett excavation and foraging and commuting Badgers. The site has habitats with the potential to support a limited range of common nesting birds, but the size of the site makes the presence of large or important breeding bird assemblages unlikely. The presence of ground nesting birds is very unlikely due to the habitats present and regular disturbance. The grassland and hedgerows provide limited suitability for use by terrestrial Great Crested Newt, but there are no known records within 2 km of the site and no apparent ponds within 250m. It is considered unlikely that Great Crested Newt are present on-site. The habitats of the proposal site and adjacent areas are suitable for use by reptiles to forage, bask, and hibernate. The neutral grassland and hedgerows provide limited foraging and commuting habitat.

#### *Conclusion*

- 9.58. 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 would 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.

#### Highway safety

- 9.59. The application seeks to utilise and modify an existing access into the site from Main Street to the west of Mole End. The access was approved as part of the Permission in Principle scheme and therefore the principle of using this, albeit for fewer dwellings, has been established. This part of the development would be the same whichever of the two schemes comes forward.
- 9.60. The Local Highway Authority has raised no objections to the use of the access in terms of highway safety, subject to the provision of a wider footpath either side of the access along with a crossing point. A legal agreement is required to secure a financial contribution towards a pair of bus stops with associated hardstanding and a suitable crossing along the A423 Southam Road with an obligation to enter into a s278 agreement to mitigate the impact of the development including the above crossing and footway improvements. OCC has reconsidered the original requirement for the provision of bus laybys and footways on the A423 as it was not considered to be reasonable or justifiable for a development of 19 dwellings to provide these elements. OCC has agreed that a contribution of £50,000 should be made towards the bus stop infrastructure, in hope that should any other development around this area that would benefit from the same service would also be tasked to contribute to the same and the infrastructure could be funded in this way.
- 9.61. No highway safety concerns have been raised regarding the internal road layout; however, a planning condition is recommended relating to a provision of cycle parking facilities. The parking provision within the site meets LHA parking standards.
- 9.62. Overall, officers conclude that the impact of the development on the highway network is not considered to be significant.

#### Drainage / Sewerage

- 9.63. Whilst the site lies within flood zone 1 and is at very low risk of flooding from surface water sufficient information was not originally submitted with the application for a full assessment of the potential for flooding to be made. This information has now been provided and the Lead Local Flood Authority has raised no objections to the development subject to conditions relating to surface water drainage and SuDS.
- 9.64. Thames Water has advised that the sewage treatment works at Cropredy cannot currently accommodate the foul water flow needs of the proposal. An upgrade scheme for Cropredy STW is scheduled to deliver for April 2026 but they have advised that as with any construction project there is potential for programme delays. As such they require a condition restricting the occupancy of the development until confirmation has been provided that all sewage works upgrades required to accommodate the additional flows from the development have been completed to ensure that the risk of pollution was reduced.
- 9.65. In response to the comments made by the Parish Council in their comments on the committee report prepared for the Planning Committee on 3 July, Thames Water has stated that the sewage treatment works (STW) capacity constraint with respect to the new development relates to foul flows and not surface water. They have said that “while all STWs are influenced by surface water infiltration, the surface water drainage strategy should be implemented in accordance with their (the applicant’s) revised strategy with infiltration into the ground which is more sustainable than discharging to the sewer and consistent with the SuDS hierarchy”.
- 9.66. The Lead Local Flood Authority has raised no objections to the proposed surface water drainage strategy.

#### Sustainability and Energy Efficiency

- 9.67. The Cherwell Local Plan includes a number of energy policies in order to seek development which mitigates and adapts to the future predicted climate change. This relates to locating development in sustainable locations as well as seeking to reduce energy use, making use of renewable energy and sustainable construction techniques. The policies are however now out of date taking into account more recent Government guidance. Energy efficiency of homes is now a matter for the Building Regulations. Policy ESD3 does however require all new homes to achieve a water efficiency standard of no greater than 110 litres/person/day. Mitigating and adapting to climate change in order to move to a low carbon economy is a key part of the environmental role of sustainable development set out in the Framework.
- 9.68. The proposal is not accompanied by information to demonstrate compliance with the energy policies of the local plan; however, the site does not meet the scale of development set out within Policy ESD5 for the provision of onsite renewables. Solar panels are proposed in the roofs of the dwellings and a condition is proposed to be recommended to meet the higher Building Regulations Standards for water consumption as set out within Policy ESD3 (110 litres/ person/ day).

#### Effect on Infrastructure and Planning Obligations

- 9.69. A S106 Legal agreement is required to be entered into to secure mitigation resulting from the impact of the development both on and off site. This would ensure that the requirements of Policy INF1 of the Local Plan can be met, which seeks to ensure that the impacts of development upon infrastructure including transport, education, health, social and community facilities can be mitigated. This includes the provision of affordable housing. The Authority is also required to ensure that any contributions sought meet the following tests, set out at Regulation 122 of the Community Infrastructure Regulations 2011 (as amended):

- Necessary to make the development acceptable in planning terms;
- Directly relate to the development; and
- Fairly and reasonable related in scale and kind to the development

9.70. 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.

9.71. Due to the level of development on the site an element of affordable housing is required. The policy requirement is for 35% affordable housing as set out in Policy BSC3 in the CLP 2015 which would equate to 6.65 units which would be rounded up to 7 units. The submitted plans show 7 units are to be provided in the form of 2x 1 bed flats, 3x 2 bed and 2x 3 bed.

9.72. 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 as outlined by the comments of the consultees. The County Council has also requested a contribution towards public transport services, as well as entering into a S278 agreement.

9.73. The heads of terms of the agreement are likely to include the following:

#### Financial Contributions

- Community Hall facilities - £20,948.08
- Outdoor sport provision - £38,323.57
- Indoor sport provision - £15,290.59
- Public realm/art - £4,256.00
- Public transport infrastructure - £50,000
- Primary Care - £16416
- Offsite contribution open space/play space

#### Other Requirements

- Affordable housing
- S278 Highway works
- Maintenance of open space method tbc
- Maintenance of roads within the development method tbc

9.74. As such it is considered that the development will comply with Policies BSC3 and INF1 of the CLP 2015 as well as guidance outlined in the NPPF.

## **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 Shortfall in Housing Supply 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.

##### *Social*

- 10.3. The delivery of homes across the district is an important positive material consideration in the planning balance. The proposals would provide affordable housing for those in need and this would be a significant social benefit. Significant weight is to be afforded to the social benefits of the proposed housing. Very significant weight is afforded to the provision of affordable housing.
- 10.4. The proposals would also provide social benefit from upgrades to local facilities through s106 contributions and these would be of benefit not just to the occupiers of the proposed development but to the wider community.

##### *Environmental*

- 10.5. The proposals also commit to a minimum of 10% biodiversity net gain, but as this is to comply with policy it carries neutral weight in the planning balance.

##### *Negative impacts*

- 10.6. The proposal does involve the development of a greenfield site, and it could be argued that this would result in some harm to the character and appearance of the locality. Significant weight is attached to the effect of the proposal on the character and appearance of the countryside through the development of greenfield land. However, it is considered that the harmful impact is mitigated by the strong well-defined boundaries of the site and the relationship with adjacent built form.

##### *Conclusion*

- 10.7. On the basis that the Council is not able to demonstrate a five-year supply of land of housing, paragraph 11d of the NPPF is engaged and the 'titled balance' applies.
- 10.8. The site benefits from Permission in Principle for development; as amended and with retention of trees and hedgerow to the northern boundary of the site the current proposal provides for additional housing without any greater impact on the area or on the amenity of residents or highway safety; and it provides for Affordable Housing to which significant weight is afforded.
- 10.9. Overall, subject to conditions as set out above and in the recommendation below, it is considered that the benefits of the scheme outweigh the harm it would cause and therefore the application is recommended for approval.

## **11. RECOMMENDATION**

**DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND**

**DEVELOPMENT TO GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):**

- a) Provision of 7 affordable dwellings on site
- b) Payment of a financial contribution (index linked) towards Community Hall facilities (£20,948.08), Outdoor sport provision (£38,323.57), Indoor sport provision (£15,290.59) and Public realm/art (£4,256.00)
- c) Payment of a financial contribution towards public transport provision (50,000.00)(index linked)
- d) S278 Agreement for carrying out works within the public highway
- e) Payment of the Council's and Oxfordshire County Council's monitoring costs to be confirmed
- f) Payment of a financial contribution of £16,416 (index linked) towards primary care.

**FURTHER RECOMMENDATION: THE STATUTORY DETERMINATION PERIOD FOR THIS APPLICATION EXPIRES ON 18.07.2025. IF THE SECTION 106 AGREEMENT/UNDERTAKING IS NOT COMPLETED BY THIS DATE AND THE PERMISSION IS NOT ABLE TO BE ISSUED BY THIS DATE AND NO EXTENSION OF TIME HAS BEEN AGREED BETWEEN THE PARTIES, IT IS FURTHER RECOMMENDED THAT THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT IS GIVEN DELEGATED AUTHORITY TO REFUSE THE APPLICATION FOR THE FOLLOWING REASON:**

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

#### **CONDITIONS**

##### **Time Limit**

1. The development to which this permission relates shall be begun not later than the expiration of 18 months beginning with the date of this permission.

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

##### **Compliance with Plans**

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the form and the following approved plans:

5674 001 P0, 002 P0, 003 P13, 004 P9, 005 P8, 006 P6, 007 P5, 008 P5, 010

P6, 011 P6, 012 P2, 013 P6, 014 P8, 015 P6, 016 P1 and SK01 P2.

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.

**CONDITIONS TO BE DISCHARGED PRIOR TO COMMENCING DEVELOPMENT**

3. No development shall commence unless and until a Construction Environment Management Plan (CEMP), which shall include details of the measures to be taken to ensure construction works do not adversely affect residential or other sensitive properties on, adjacent to or surrounding the site together with details of the consultation and communication to be carried out with the occupiers of those properties, has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with approved CEMP.

Reason - To ensure the environment is protected during construction in accordance with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. As contamination was identified in the report provided with the application (RDM1194 dated 8th July 2024), 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 "Land Contamination Risk Management (LCRM)" 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 Government guidance contained within the National Planning Policy Framework.

5. No development shall commence including any demolition unless and until a professional archaeological organisation acceptable to the Local Planning Authority has prepared an Archaeological Written Scheme of Investigation, relating to the application site area and which has been submitted to and approved in writing by the Local Planning Authority.

Reason - To safeguard the recording of archaeological matters within the site in accordance with the NPPF (2023).

6. Following the approval of the Written Scheme of Investigation referred to in condition 5, and prior to any demolition on the site and the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a

full report for publication which shall be submitted to the Local Planning Authority within two years of the completion of the archaeological fieldwork.

Reason – To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with the NPPF (2023).

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

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

8. No development shall commence above slab level until a method statement for enhancing biodiversity has been submitted to and approved in writing by the local planning authority. The biodiversity enhancement measures approved shall be carried out prior to occupation and shall thereafter be retained in full accordance with the approved details. The statement should include the location and type of all bird, bat and hedgehog boxes, RAMs for great crested newts, a nesting bird check, tree check and soft-strip methodology.

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.

9. No development shall commence unless and until an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions has been submitted to and approved



in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS.

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

#### **CONDITIONS TO BE DISCHARGED PRIOR TO CERTAIN WORKS**

10. No development shall commence above slab level until sample panels of the stone and brick to be used in the construction of the external elevations of the dwellings and stone boundary wall have been prepared on site for inspection and approved in writing by the local planning authority. The sample panels shall be at least 1 metre x 1 metre and show the proposed material, bond and pointing technique. The sample panels shall be constructed in a position that is readily accessible for viewing in good natural daylight and shall not be removed from the site until completion of the development. The development shall not be carried out other than in accordance with the approved samples and shall be retained as such thereafter.

Reason: To safeguard the character and appearance of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and government guidance contained within the National Planning Policy Framework.

11. Samples of the slates to be used in the covering of the roof of the development hereby permitted shall be submitted to and approved in writing by the local planning authority prior to commencement of those works. The development shall not be carried out other than in accordance with the samples so approved and shall be retained as such thereafter.

Reason: To safeguard the character and appearance of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and government guidance contained within the National Planning Policy Framework.

12. No development shall commence above slab level until details of the construction, including cross sections, cill, lintel, reveal and colour/finish of the proposed windows and doors, to a scale of not less than 1:10 have been submitted to and approved in writing by the local planning authority. The development shall be carried out in strict accordance with the approved details prior to the first occupation of the dwellings and shall be retained as such thereafter.

Reason: To safeguard the character and appearance of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and government guidance contained within the National Planning Policy Framework.

13. Prior to the construction of the footpath link to the Public Right of Way construction and surfacing details of the footpath link shall be submitted to and approved in writing by the local planning authority. The works shall not be carried out other than in accordance with the approved details and shall be

retained as such thereafter.

Reason: To safeguard the character and appearance of the area in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and government guidance contained within the National Planning Policy Framework.

14. No development shall commence above slab level until a scheme for landscaping the site has been submitted to and approved in writing by the Local planning authority. The scheme shall include:

- details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas and written specifications (including cultivation and other operations associated with plant and grass establishment i.e. depth of topsoil, mulch, etc.),
- details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
- details of the hard landscaping including hard surface areas, pavements, pedestrian areas and steps.

The development shall be carried out in strict accordance with the approved landscaping scheme and the hard landscape elements shall be carried out prior to the first occupation or use of the development and shall be retained as such thereafter.

All planting, seeding or turfing included in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) [or on the completion of the development, whichever is the sooner,] and shall be maintained for a period of 5 years from the completion of the development. Any trees and/or shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. The approved hard landscaping and boundary treatments shall be completed prior to the first occupation of the development and shall be retained as such thereafter.

Reason: To ensure that a satisfactory landscape scheme is provided in the interest of visual amenity of the area and to comply with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and government guidance contained within the National Planning Policy Framework.

#### **CONDITIONS TO BE DISCHARGED PRIOR TO OCCUPATION**

15. No development shall be occupied until confirmation has been provided to the Local Planning Authority that all sewage works upgrades required to accommodate the additional flows from the development have been completed.

Reason - To prevent environmental and amenity problems arising from flooding and to comply with government guidance contained within the National Planning Policy Framework.

16. Prior to first occupation of the development hereby approved, a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead

Local Flood Authority Asset Register. The details shall include:

- (a) As built plans in both .pdf and .shp file format;
- (b) Photographs to document each key stage of the drainage system when installed on site;
- (c) Photographs to document the completed installation of the drainage structures on site;
- (d) The name and contact details of any appointed management company information.

Reason – To ensure that the development/site is served by sustainable arrangements for the disposal of surface water, to comply with Policy ESD6 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework

17. The development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 4. 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 Government guidance contained within the National Planning Policy Framework.

18. Prior to the first use or occupation of the development hereby approved details of the external lighting including the design, position, orientation and any screening of the lighting shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall be installed in accordance with the approved scheme prior to the first use of the development hereby approved and shall be operated and maintained as such at all times thereafter.

Reason: In the interests of visual amenity and highway safety and to protect the amenities of nearby residents and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies C28 and ENV1 of the Cherwell Local Plan 1996 and government guidance contained within the National Planning Policy Framework.

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

Reason - In the interests of sustainability, to ensure a satisfactory form of development and to comply with Government guidance contained within the National Planning Policy Framework

## **COMPLIANCE CONDITIONS**

20. No dwelling shall be occupied until it has 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.