

**Case Officer:** Nicola Wheatcroft

**Applicant:** Obsidian Strategic Asset Management Ltd

**Proposal:** Outline planning application (with All Matters Reserved except for access) comprising a residential development of up to 74 dwellings (Use Class C3) with associated access, landscaping, amenity space, drainage and associated works

**Ward:** Cropredy, Sibfords And Wroxton

**Councillors:** Councillors Borkman, Aramini-Brant, Webb

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

**Expiry Date:** 24 July 2026

**Committee Date:** 23 July 2026

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**SUMMARY RECOMMENDATION: REFUSE PERMISSION**

**MAIN REPORT**

**1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site is located to the north of Cropredy, between Claydon Road and the Oxford Canal. It comprises 2 fields measuring approx. 5.9 ha. Cropredy Marina is located to the east of the application site, with the access road to the Marina crossing through the application site. The site is mostly flat sloping up to south. Access to the site is also provided from Claydon Road. The boundary with the road consists of a mature hedgerow, which screens the site from the road, a hedge also separates the site from the Marina.
- 1.2. The parcel of land immediately to the south has outline planning permission (ref. 23/00977/OUT) granted in July 2025 for up to 60 dwellings and a community health facility on Land East of Claydon Road.

**2. CONSTRAINTS**

- 2.1. The application site lies adjacent in part to the Oxford Canal and the Oxford Canal Conservation Area. The Oxford Canal Walk / PRoW 179/13/40, which follows the canal is also adjacent to the site. In addition, the Cropredy Conservation Area, separated from the site by the consented land.
- 2.2. The site falls within the wider Upper Cherwell Valley, identified in the Council's local landscape designation evidence as a landscape of above ordinary value. Also of importance is the historic landscape context of Cropredy, including the Battle of Cropredy Bridge and designated heritage assets in the wider area. The site is Grade 3 Best and Most Versatile Land (BMVL).

**3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. Outline planning permission is sought for the erection of up to 74 dwellings with access for consideration at this stage, all other matters including are reserved for subsequent approval.
- 3.2. The illustrative masterplan shows the housing in the form of detached, semi-detached and small terraced two storey dwellings located to the west and south of the site. Open space including sustainable drainage areas are proposed to the east of the houses adjacent to the Marina.

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

- 4.1. There is no planning history directly relevant to the proposal, other than the outline planning permission on the land to the south (see para 1.2 above).

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

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

25/02238/PREAPP - Residential development, with an indicative capacity of circa 85 dwellings, subject to technical assessment.

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

- 6.2. The comments raised by third parties in the c.130 letters of objection are summarised as follows:

- Principle of development - The site is outside of the existing Village; There are no shops in the village; The village school is already at capacity; The village surgery is massively over capacity and does not need replacing as the roof has now been fixed; Lack of public transport; Few links to the village; No need for additional housing; Cumulative and Disproportionate Growth - 134 dwellings adjacent to Cropredy, a village of approximately 750 residents is a significant increase; Settlement Hierarchy and Emerging Policy Conflict - Cropredy is currently a Category A village but in the emerging local plan it will be a Category C
- Visual and heritage impact – Impact on historic village and tourist destination; Impact on the Canal Conservation Area; Landscape harm; Will increase light pollution
- Residential amenity - The site will infringe on the privacy of existing residence that borders the site and the residents of the Marina; The proposed site will increase risk of intrusion and burglary to neighbours that back onto the site;
- Community / infrastructure - The site would damage the community of the village; How will scheme help identified infrastructure needs?

- Highway safety / traffic - All roads out of the site are not suitable for heavy traffic other than through the village; The road network through the village to the site is unsuitable for the additional vehicles, increasing risk of accident and incident
- Flood risk / drainage - The site floods regularly and any additional buildings will increase the risk of overspill onto existing residences and new housing will flood regularly; The proposal will overload the existing sewer system
- Ecology - The site will increase risk of contamination overspill into the canal and then to the river putting at risk wildlife and habitat; The proposed site will destroy existing natural habitats; The PEA records for curlews are incomplete
- Other matters - Open space only accessed through the development; Ground is unstable; Loss of viable agricultural land
- Non planning issues raised, not material considerations - The new site will significantly devalue many existing properties in the village;

1 letter of support

- The village has had a lot of development but still retains its village feel.
- There will be more support for local businesses

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. CROPREDY PARISH COUNCIL: **Objects**, due to size and scale of proposal, location it would not be integrated with the village, flood retention ponds, no provision for landscape maintenance, lack of sustainable transport, water and sewage issues, road safety, village hall capacity, no village store. The ability bus service has been cut and there will be a negative impact upon the countryside and existing character and appearance of the area.

7.3. OCC HIGHWAYS: **No objection** subject to S106 contributions, an obligation to enter into a S278/S38 agreement and the imposition of planning conditions;

7.4. OCC LEAD LOCAL FLOOD AUTHORITY: **No objection**;

7.5. OCC EDUCATION: **No objection** subject to S106 contributions;

7.6. OCC ARCHAEOLOGY: **No objection** subject to conditions ensuring the implementation of a staged programme of archaeological investigation to be maintained during the period of construction;

7.7. CDC ECOLOGY: Requested more information or clarification on protected species surveys, woodland protection, traditional orchard and public access, BNG metric and plan inconsistencies

7.8. CDC ENVIRONMENTAL PROTECTION: **No objection** subject to appropriate conditions on contamination and the provision of CEMP;

- 7.9. CDC STRATEGIC HOUSING: **No objection** subject to the provision of 26 Affordable Houses (19 x social rented 7 x shared ownership);
- 7.10. CDC URBAN DESIGN: **No objection** but raised some concerns:
- Lack of secondary vehicle connection
  - Lack of clarity that the pedestrian/cycle link to the approved development to the south is deliverable
  - The applicant removed the proposed pedestrian access to Cropredy Marina because it is not deliverable
  - The applicant has removed the indicative road layout from the plan because this is not for determination and not supported.
  - The plan has not been updated to fix key pedestrian and cycle routes – all routes are labelled as 'indicative'.
  - The land use proposals would not allow for the retention of existing views out from the Cropredy Marina access. This would remove the existing view and relationship with the wider countryside.
  - Alternative site coverage arrangements to retain this relationship are not tested in the DAS addendum.
  - The amended green infrastructure plan indicates a continuous 'landscape' buffer of 15-20m to the site's northern and western boundaries. The need for such an extensive buffer is not justified. It would remove the relationship between the site and the wider countryside
  - There needs to be one single parameter plan
  - The northernmost developable land needs to be open space land uses
- 7.11. CDC CONSERVATION: Comments awaited
- 7.12. CANAL AND RIVER TRUST: Comments awaited
- 7.13. CDC LANDSCAPE: **Objection** on landscape and visual grounds
- 7.14. CDC FLOOD RISK: **No objection** subject to conditions;
- 7.15. CDC BUILDING CONTROL: **No objection**, the proposal is subject to the Building Regulations, and will require an application to be submitted to a Building Control body for approval;
- 7.16. NHS INTEGRATED CARE BOARD: **No objection** subject to S106 contribution to fit out the doctors surgery permitted under application 23/00977/OUT;
- 7.17. THAMES WATER: **No objection**, a number of conditions are required as the foul water network does not have sufficient capacity to support the proposed development and the inability of the existing water network infrastructure to accommodate the needs of this development proposal;
- 7.18. THAMES VALLEY POLICE CRIME PREVENTION DESIGN: **No objection** but raises a number of detailed concerns about the proposed layout;

- 7.19. CAMPAIGN TO PROTECT RURAL ENGLAND: **Objects** as the proposal would cause irreparable harm to the area's unique built, natural and cultural context contrary to Policy ESD15.

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

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

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

- PSD1: Presumption in Favour of Sustainable Development
- SLE4: Improved Transport and Connections
- BSC1: District Wide Housing Distribution
- BSC2: The Effective and Efficient Use of Land – Brownfield land and Housing Density
- BSC4: Housing Mix
- BSC10: Open Space, Outdoor Sport and Recreation Provision
- BSC11: Local Standards of Provision – Outdoor Recreation
- BSC12: Indoor Sport, Recreation and Community Facilities
- ESD1: Mitigating and Adapting to Climate Change
- ESD2: Energy Hierarchy and Allowable Solutions
- ESD3: Sustainable Construction
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems (SuDs)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment
- Villages 1: Village Categorisation
- Villages 2: Distribution Growth Across the Rural Areas
- INF1: Infrastructure

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

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

- TR1: Transportation funding

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

- SP1: Settlement Hierarchy.
- CSD1: Mitigating and adapting to climate change.
- CSD2: Achieving net zero carbon development residential.
- CSD 8: Sustainable Drainage Systems
- CSD 9: Water Resources and Wastewater Infrastructure.
- CSD 11: Protection and Enhancement of Biodiversity
- CSD 12: Biodiversity Net Gain.
- CSD 16: Air Quality
- CSD 18: Light Pollution
- CSD 23: Assessing Transport Impact/ Decide and Provide.
- LEC 6: Supporting A Thriving and Resilient Farming Sector.
- LEC7: Best and Most Versatile Agricultural Land.
- COM1: District Wide Housing Distribution
- COM2: Affordable Housing
- COM3: Housing Size/Type
- COM10: Protection and Enhancement of the Landscape.
- COM11: Cherwell Local Landscape Designations.
- COM 13: Settlement Gaps
- COM 14 Achieving Well Designed Places.
- COM 15 Active Travel - Walking and Cycling
- COM 20 Providing Supporting Infrastructure and Services.
- COM 22 Public Services and Utilities.
- COM23 Local Services and Community Facilities.
- COM24 Open Space, Sport and Recreation
- COM25 Local Green Space.
- COM 26 Historic Environment.

### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Design Guide (2018)
- Cherwell Home Extensions and Alterations Design Guide (2007)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 ("HRA")
- Equalities Act 2010 ("EA")
- Oxfordshire Wildlife and Landscape Study
- Cherwell Landscape Character Assessment 2024

## 9. APPRAISAL

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

- Principle of development
- Landscape Impact

- Heritage impact
- Residential amenity
- Highway impact
- Drainage impact
- Ecology impact
- Infrastructure

## Principle of Development

### *Policy Context*

- 9.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for this area comprises the adopted Cherwell Local Plan 2011-2031 Part 1 ('CLP 2015') and the saved policies of the Cherwell Local Plan 1996 ('CLP 1996').
- 9.3. The CLP 2015 seeks to allocate sufficient land to meet district-wide housing needs. The Plan states, *'The most sustainable locations for growth in the District are considered to be Banbury, Bicester and the larger villages as identified in Policies Villages 1 and Villages 2 as these settlements have a range of services and facilities, reducing the need to travel by car'*. With regards to villages, the plan notes that the intention is to protect and enhance the services, facilities, landscapes and natural and historic built environments of the villages and rural areas. It does, however, advise that there is a need within the rural areas to meet local and Cherwell-wide needs and therefore allows for an appropriate and proportionate amount of growth in the rural areas.
- 9.4. Paragraph E.10 of the Plan states, *'Housing delivery will be monitored to ensure that the projected housing delivery is achieved. The District is required by the NPPF and the NPPG (to maintain a continuous five year supply of deliverable (available, suitable and achievable) sites as well as meeting its overall housing requirement'*.
- 9.5. Paragraph E.19 of the Local Plan states, *"If the supply of deliverable housing land drops to five years or below and where the Council is unable to rectify this within the next monitoring year there may be a need for the early release of sites identified within this strategy or the release of additional land. This will be informed by annual reviews of the Strategic Housing Land Availability"*.
- 9.6. Policy Villages 1 of the CLP 2015 provides a framework for housing development in the rural areas of the district and groups villages into three separate categories (A, B and C). The categorisation of villages was informed by a defined range of sustainability criteria (CLP 2015 para C.255). Cropredy is a Category A village.
- 9.7. Policy Villages 2 of the CLP 2015 states, *'A total of 750 homes will be delivered at Category A villages. This will be in addition to the rural allowance for small site 'windfalls' and planning permissions for 10 or more dwellings as at 31 March 2014'*. This Policy notes, *'Sites will be identified through the preparation of the Local Plan Part 2, through the preparation of the Neighbourhood Plan where applicable, and through the determination of applications for planning permission'*.
- 9.8. Policy Villages 2 states that in identifying and considering sites, particular regard will be given to the following criteria:

- i. *'Whether the land has been previously developed land or is of less environmental value';*
- ii. *'Whether significant adverse impact on heritage and wildlife assets could be avoided';*
- iii. *'Whether development would contribute in enhancing the built environment';*
- iv. *'Whether best and most versatile agricultural land could be avoided';*
- v. *'Whether significant adverse landscape and visual impacts could be avoided';*
- vi. *'Whether satisfactory vehicular and pedestrian access/egress could be provided';*
- vii. *'Whether the site is well located to services and facilities';*
- viii. *'Whether necessary infrastructure could be provided';*
- ix. *'Whether land considered for allocation is deliverable now or whether there is a reasonable prospect that it could be developed within the plan period';*
- x. *'Whether land the subject of an application for planning permission could be delivered within the next five years';*
- xi. *'Whether development would have an adverse impact on flood risk'.*

9.9. 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 DCLP updates the settlement hierarchy and removes Cropredy from the list of Category A villages with it now falling into Category C of smaller villages.

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

9.11. The NPPF explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

9.12. So that sustainable development is pursued in a positive way, the NPPF includes a 'presumption in favour of sustainable development' (para. 10). Paragraph 11 states that applying the presumption to decision-making means:

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites), granting permission unless:
  - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed;
  - ii. or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

9.13. The position in which the most important policies are considered to be out-of-date because of the absence of a five-year housing land supply is often referred to as the 'tilted balance'.



- 9.14. Paragraph 12 advises, *'The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.'*
- 9.15. Paragraph 74 highlights the need for Local Planning Authorities ('LPAs') to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old (unless these strategic policies have been reviewed and found not to require updating as in Cherwell's case).
- 9.16. The latest Cherwell District Council Annual Monitoring Report dated December 2025 confirms that Cherwell District Council can only demonstrate a housing land supply of 3.1 years. PV1 and PV2 along with H18 and BSC1 cannot therefore be considered up-to-date. Policy PSD1 of the CLP 2015 and the paragraph 11 (d) of the NPPF which set out the presumption in favour of sustainable development are therefore engaged.
- 9.17. 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.

#### *Assessment*

- 9.18. The application site is located outside the built up limits of the settlement, in light of which Policy Villages 2 is central to assessing the acceptability of the proposal. The policy states that *"a total of 750 homes will be delivered at Category A villages."*
- 9.19. The development would not be in accordance with the development plan's allocations – the site is not allocated for development, over 750 dwellings have been delivered at Category A villages, and the overall goal of the CLP 2015 is to direct housing towards the most sustainable, metropolitan areas such as Banbury, Bicester and Kidlington.
- 9.20. Given the current housing land supply within the district the tilted balance is engaged, and various appeal decisions (e.g. APP/C3105/W/23/3327213, July 2024; APP/C3105/W/23/3331122, May 2024) have established that this figure is not a cap or ceiling to development and that proposals at Category A villages that are otherwise acceptable can nevertheless still be supported. Thus, the numerical element of PV2 is nullified and without effect, but this is the case anyway given the Council's housing land supply position.
- 9.21. Policy Villages 1 of the CLP 2015 designates Cropredy as a 'service village' where minor development, infilling and conversions are permissible. The supporting text to the policy states that infilling refers to the development of a small gap in an otherwise continuous built-up frontage. Under such a definition the proposal would not constitute infilling. Further supporting text states that in assessing whether proposals constitute acceptable 'minor development', regard will be given to the size of the village and the level of service provision, the site's context within the existing built environment, whether it is in keeping with the character and form of the village,

its local landscape setting and careful consideration of the appropriate scale of development.

- 9.22. The site is an undeveloped green field site that, given its physical and visual relationship to the existing built form, is outside of Cropredy village, and therefore within the countryside. The proposal for development on a greenfield site would have an urbanising impact.
- 9.23. The proposal therefore conflicts with Policies BSC1, PV1 and PV2 of the CLP 2015 as well as saved Policy H18 of the CLP 1996.
- 9.24. However, given the current housing land supply within the district the tilted balance is engaged. This means that the policies which are most important for determining the application are now out-of-date and the NPPF recommends granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Therefore, the policies restricting new housing development in edge of village locations now have less weight. Applications will need to be assessed against the NPPF as a whole, having particular regard to key policies identified in para. 11d of the NPPF namely sustainable locations, making effective use of land, providing affordable housing, etc.
- 9.25. As noted above, Cropredy is designated in the CLP 2015 as a Category A 'service village'. The village currently has a GP surgery, primary school and two public houses. However, since the adoption of the CLP 2015 Cropredy's sustainability credentials have materially diminished as the village no longer has a bus service and the village shop has closed. Hence the locational sustainability of Cropredy has significantly reduced in recent times.
- 9.26. This is reflected in the draft Local Plan, which downgrades Cropredy to a Category C village, a classification for villages containing only a limited number of services and facilities with poor/irregular access to public transport. Residential development of the size proposed would be considered unacceptable in the vicinity of a Category C village. However, as the emerging local plan has not been through examination limited weight is afforded to the Policy change.
- 9.27. However, irrespective of the draft Local Plan, the sustainability credentials of Cropredy have materially diminished since 2015, especially in relation to the bus service. Village amenities are now limited to the primary school, the GP surgery and two public houses. Future occupiers of the proposed development would have limited access to key services other than by using the private car. Therefore, the proposal does not find support from Policy ESD1 and the site's poor sustainability credentials do not form a positive material consideration to outweigh the identified policy conflict but instead weigh against the proposals.
- 9.28. The adjacent site to the south benefits from outline planning permission for up to 60 dwellings (planning ref: 23/00977/OUT) which abuts Cropredy. At the present time this permission has not been implemented and no reserved matters application has been submitted. Officers have raised concerns with the applicant that, if this permission is not implemented and constructed, the proposed development would result in an isolated stand-alone development in the open countryside, physically disconnected from the village.
- 9.29. The two sites are in the same ownership. Earlier in the application the applicant stated that the two sites would be brought forward by different developers and should be assessed as such but the applicant has latterly stated the intention for the two sites to be delivered together. Following legal advice from the Council's solicitors, Officers are satisfied that a Section 106 agreement could be used to

ensure that the 23/00977/OUT permission is constructed prior to the scheme under consideration, thereby ensuring that any development comes forward in a logical manner and does not result in a stand-alone residential development. If the application is refused the disconnection needs to be raised as a holding objection i.e. lack of section 106 agreement to secure this.

### *Conclusion*

- 9.30. The proposal conflicts with the Council's housing policies; however, the Council can demonstrate only a 3.1 years housing land supply and so these policies are out of date and afforded less weight.
- 9.31. The provision of up to 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.
- 9.32. Future occupiers of the development would be reliant on private travel for most day-to-day needs, and the site's relatively poor sustainability credentials weigh against the proposals. This was of concern to the LPA when considering the earlier application for 60 dwellings but the provision of a GP surgery as part of that development weighed in favour of the application, whereas the current application is for residential development with no similar community benefit.
- 9.33. Unless the extant permission for 60 dwellings to the south of the site is developed the proposal would result in an isolated stand-alone development in the open countryside, physically disconnected from the village. These matters will need to be weighed in the planning balance.

### Landscape Impact

#### *Policy*

- 9.34. Policy ESD13 of the CLP 2015 promotes landscape protection and enhancement opportunities to secure an enhancement of the character and appearance of the landscape, through the restoration, management or enhancement of existing landscapes, features or habitats or where appropriate the creation of new ones, including the planting of woodlands, trees and hedgerows. Development would be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character could not be avoided. Schemes that cause visual intrusion into the open countryside; cause undue harm to important natural landscape features and topography; be inconsistent with local character impact on areas judged to have a high level of tranquillity will not normally be permitted.
- 9.35. The NPPF is a material consideration. Paragraph 187 requires planning decisions to contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, and by recognising the intrinsic character and beauty of the countryside. Paragraph 135 requires development to be sympathetic to local character and history, including the surrounding built environment and landscape setting.
- 9.36. The site lies within LCA 1: Upper Cherwell Basin. The 2024 Cherwell Landscape Character Assessment describes this area as the floor and sides of the River Cherwell valley, with the Oxford Canal forming a spine through the area. It identifies small historic settlements, open expanses of arable and pasture fields, long-distance views across the valley and a remote rural character despite proximity to Banbury.

- 9.37. The site is also within the landscape type identified by Oxfordshire Wildlife and Landscape Study (OWLS) as Clay Vale, which is described as a low-lying vale landscape associated with small pasture fields, many watercourses and hedgerow trees, and well-defined nucleated villages. Key characteristics include flat, low-lying landform, pasture-dominated mixed land use, small to medium-sized hedged fields, mature oak, ash and willow hedgerow trees, dense tree-lined streams and ditches, and small to medium-sized nucleated villages.

#### *Assessment*

- 9.38. The proposed development would result in a significant increase in the size of Cropredy, which remains a relatively small settlement at this time. There are currently c. 350 houses in the parish; the extant permission would be a 17% increase in the size of Cropredy; cumulatively (i.e. with the extant permission for 60 dwellings) the current proposal would result in an increase of 38% in the size of Cropredy. The proposed development would also project significantly northward from Cropredy into what is a sensitive, valley-edge landscape, resulting in substantial and permanent change to the character of the site, and would appear as a significant 'bolt on' to the village of Cropredy, a characterful settlement which has grown organically through history.
- 9.39. The form and nature of the nucleated settlement would be significantly changed by the cumulative addition of up to 134 dwellings, resulting in harm to the character of the site, on local landscape character and on views sensitive public receptors, particularly users of the Oxford Canal towpath.
- 9.40. As an indicator of the extent of growth, the Cropredy Conservation Area measures approximately 615 metres from its southern extent to its northern extent. Taken together with the approved scheme for 60 dwellings the current proposal would have a north-south extent of approximately 465 metres, which equates to approx. 75% of the north-south size of the Conservation Area.
- 9.41. To help the assessment of the proposal's landscape effects, officers have sought the advice of the LPA's landscape officer.
- 9.42. The applicant's LVIA identifies that the development would result in an "almost total change" to the site and assesses landscape effects on the site and its immediate context as major/moderate adverse at Year 1, reducing to moderate adverse at Year 15.
- 9.43. The Council's Landscape Officer notes that the greatest visual effects would be experienced from the Oxford Canal towpath / Oxford Canal Walk PRoW 179/13/40, which the LVIA assesses as a high/medium sensitivity receptor. The LVIA assesses effects on towpath users as major/moderate adverse at Year 1, reducing only to moderate adverse at Year 15. The towpath is a public recreational route and long-distance walking route, and the Oxford Canal is a distinctive and historically important feature within the landscape. The proposal would increase the amount of residential built form visible from the canal corridor and would urbanise the experience of this section of the route.
- 9.44. The applicant's LVIA identifies major/moderate adverse effects on the site and major/moderate adverse effects for users of the Oxford Canal towpath at Year 1, with residual moderate adverse effects remaining at Year 15. These effects are material when assessed against Policy ESD 13, which requires development to respect and enhance local landscape character and avoid undue visual intrusion into the open countryside. The applicant does refer to screening and planting helping to mitigate the impact of the proposed housing and whilst it may to a degree

the size of the proposal together with its sensitive location means mitigation would not fully address the concerns. The proposal is therefore considered to contrary to Policy ESD 13 of CLP 2015.

### *Conclusion*

- 9.45. The proposed development would cause undue visual intrusion into the open countryside which would be inconsistent with the rural character of this part of the Upper Cherwell Basin. The proposal would also harm the landscape setting and recreational experience of the Oxford Canal corridor and reduce the tranquillity and rurality of the settlement edge. The nucleated settlement pattern identified in the landscape evidence base would not be maintained nor would the distinctive role of the Oxford Canal within the local landscape. Finally, the proposal fails to respect and enhance local landscape character. It is therefore concluded that the proposal is contrary, in landscape and visual terms, to CLP Policy ESD 13: Local Landscape Protection and Enhancement and Policy ESD15.

### Heritage Impact

- 9.46. The site is located partly adjacent to the Oxford Canal Conservation Area and the development affects the setting of a Conservation Area.
- 9.47. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
- 9.48. Conservation Areas are designated heritage assets, and Paragraph 205 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* Policy ESD15 of the CLP 2015 echoes this guidance.
- 9.49. By virtue of their scale and location, the proposals would have an appreciable and significant impact on the character and appearance of the Oxford Canal Conservation Area through change to its setting.
- 9.50. The key consideration here is whether the development would cause harm and whether its impact can be satisfactorily mitigated.
- 9.51. The Conservation Officer has been consulted on the application as has the Canal and Rivers Trust and their comments will be reported to planning committee.

### Highways Impact

- 9.52. Paragraph 114 of the NPPF states that in assessing specific applications for development, it should be ensured that:
- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
  - b) safe and suitable access to the site can be achieved for all users;

c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and

d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

9.53. In addition, paragraph 115 highlights that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

9.54. The proposed access into the site is off Claydon Road. The Local Highway Authority initially objected to the proposal; however, following discussions the LHA advises the objection could be overcome subject to the securing of S106 obligations towards public transport and public rights of way, as well as the imposition of certain planning conditions.

9.55. Overall, therefore, it is considered that the proposal would not result in a danger in those using the highway and the proposal is in line with the NPPF.

#### Drainage Impact

9.56. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 172 of the NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;

b) the development is appropriately flood resistant and resilient;

c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;

d) any residual risk can be safely managed; and

e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

9.57. The NPPF continues by stating that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:

a) take account of advice from the lead local flood authority;

b) have appropriate proposed minimum operational standards;

c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and

d) where possible, provide multifunctional benefits.

- 9.58. Policy ESD6 of the CLP 2015, consistent with the NPPF, resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding. Policy ESD7 of the CLP 2015 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District.
- 9.59. The current situation is that the site is located within a flood zone 1 which is land which has less than 1 in 1,000 annual probability of river flooding. The applicant submitted a Flood Risk Assessment as part of the application. The Lead Local Flood Authority has commented on this and does not have an objection to the scheme provided suitably worded conditions are imposed. For this reason, it is considered that the proposals are or can be made acceptable in flood risk and drainage terms.

#### Residential Amenity

- 9.60. Saved Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. These provisions are echoed in Policy ESD15 of the CLP 2015 which states amongst other things that, new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space.
- 9.61. The application is in outline form at this stage; therefore, detailed consideration of residential amenity will take place at the reserved matters stage. However, the submitted indicative masterplan indicates that the site can accommodate the number of dwellings without having a detrimental impact on the amenities of the proposed dwellings. In addition, there are no existing dwellings within the vicinity of the site.
- 9.62. It is therefore considered that there are no significant residential amenity issues at this stage and the proposal is in line with Policy ESD15 of the CLP 2015 in this regard as well as Policy C30 of CLP 1996.

#### Ecology Impact

##### *Legislative context*

- 9.63. 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.
- 9.64. 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.
- 9.63. 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.

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

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

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

#### *Policy Context*

9.66. Paragraph 180 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

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

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

9.69. Policy ESD10 of the Cherwell Local Plan 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.

- 9.70. Policy ESD11 is concerned with Conservation Target Areas (CTAs), and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.
- 9.71. 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.
- 9.72. 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*

- 9.73. The application is accompanied by a Preliminary Ecological Appraisal which concludes that the site has limited potential to contain protected species and any species present are unlikely to be adversely affected by the proposed development. The Council's Ecologist has assessed the proposal and raised some issues regarding the breeding bird survey and Biodiversity Net Gain. These discussions are ongoing and Members will be updated at the meeting.

#### Infrastructure

- 9.74. Policy INF1 of the CLP 2015 requires development proposals to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.
- 9.75. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Paragraph 56 of the NPPF states that planning obligations must only be sought where they meet all of the following tests:
- a) necessary to make the development acceptable in planning terms;
  - b) directly related to the development; and
  - c) fairly and reasonably related in scale and kind to the development.
- 9.76. Policy BSC 3 of the CLP 2015 states, amongst other things that at Kidlington and elsewhere, all proposed developments that include 11 or more dwellings (gross), or which would be provided on sites suitable for 11 or more dwellings (gross), will be expected to provide at least 35% of new housing as affordable homes on site. The Policy continues by stating that, all qualifying developments will be expected to provide 70% of the affordable housing as affordable/social rented dwellings and 30% as other forms of intermediate affordable homes. Social rented housing will be particularly supported in the form of extra care or other supported housing. It is

expected that these requirements will be met without the use of social housing grant or other grant.

- 9.77. 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.
- 9.78. This application is for up to 74 residential units on the site which would represent a major application in terms of definition. For this reason, the application should provide an element of affordable housing as part of the proposal.
- 9.79. The policy requirement is for 35% affordable housing as set out in Policy BSC3 in the CLP 2015 which would equate to 26 units.
- 9.80. 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, education necessary for the development as outlined by the comments of the consultees, and a contribution towards health care. The County Council has also requested a contribution towards public transport services, as well as entering into a S278 agreement.
- 9.81. All contributions have been agreed in principle with the applicant, except the education contribution about which clarification was sought from OCC. The education team at OCC have been reconsulted and the Committee will be updated at the meeting on the outcome.
- 9.82. As such it is considered that aside from the education contribution the proposed development would comply with Policies BSC3 and INF1 of the CLP 2015 as well as guidance outlined in paragraph 54 of the NPPF.

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

- 10.1. In determining this application the Council is required by Section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine the application in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Cherwell Local Plan 2011-2031 Part 1 and the saved policies of the Cherwell Local Plan 1996.
- 10.2. The proposed development would not accord with the Development Plan. The application site lies beyond the built-up limits of Cropredy on undeveloped greenfield land and therefore conflicts with the spatial strategy of the Development Plan, including Policies BSC1, Villages 1 and Villages 2 of the Cherwell Local Plan 2011-2031 Part 1 and saved Policy H18 of the Cherwell Local Plan 1996. Moderate weight is attributed to this conflict.
- 10.3. The Council currently cannot demonstrate a five-year supply of deliverable housing land and can demonstrate only approximately 3.1 years of housing land supply. Consequently, the most important policies for determining the application are out-of-date and the presumption in favour of sustainable development contained within Policy PSD1 of the Cherwell Local Plan and paragraph 11(d) of the NPPF is engaged. The application must therefore be assessed on the basis of whether any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole.

- 10.4. Substantial weight is attributed to the benefits arising from the proposal. The development would deliver up to 74 dwellings, including policy-compliant affordable housing provision, contributing towards market and affordable housing needs within the District. The delivery of additional housing attracts significant positive weight and the provision of affordable housing attracts very substantial positive weight in light of the recognised need for affordable homes across the District. Additional economic benefits would arise during both the construction and operational phases of development and through contributions towards local infrastructure secured through a Section 106 Agreement.
- 10.5. However, significant adverse weight is attributed to the landscape and visual impacts of the proposal. The development would result in the loss of open greenfield land and would introduce substantial residential built form into a sensitive part of the Upper Cherwell Basin landscape. The proposal would extend the built form of Cropredy significantly northwards, eroding the rural character of the settlement edge and resulting in harmful visual intrusion into the open countryside. Significant adverse effects would also arise in respect of the setting and recreational experience of the Oxford Canal corridor, a valued landscape and heritage asset.
- 10.6. Further significant weight is attributable to the cumulative impact of the proposal when considered alongside the recently approved development on adjoining land to the south. Taken together, the developments would result in a substantial extension to Cropredy, materially altering the traditional nucleated settlement pattern identified within the Council's landscape evidence base and resulting in a form of growth that is disproportionate to the character and appearance of the village.
- 10.7. Moderate adverse weight is also attributed to the limited sustainability credentials of the location. Whilst Cropredy remains identified as a Category A village within the adopted Local Plan, the village has experienced a reduction in local services and public transport accessibility since the adoption of that Plan. Future residents would therefore be highly reliant on the private car to meet many day-to-day needs.
- 10.8. Having regard to the Council's housing land supply shortfall and the substantial benefits arising from the delivery of up to 74 dwellings including affordable housing, Officers conclude that those benefits are insufficient to outweigh the significant and lasting harm identified to landscape character, visual amenity, settlement form and the rural setting of Cropredy, together with the site's limited locational sustainability.
- 10.9. When assessed against the policies of the NPPF taken as a whole, it is concluded that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of the proposal. The presumption in favour of sustainable development is therefore disengaged and the proposal does not constitute sustainable development.
- 10.10. Accordingly, planning permission should be refused for the reasons set out below.
- 10.11. It should be noted that at this time there are outstanding concerns in relation to ecology and comments awaited from the Canal and Rivers Trust and the Council's Conservation Officer and these will be reported to members.

## **11. RECOMMENDATION**

**REFUSAL FOR THE REASONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE REASON(S) AS DEEMED NECESSARY)**

## REASONS FOR REFUSAL

1. The proposal would be an urbanising form of development, would result in the permanent loss of open greenfield land at the northern edge of Cropredy and would extend built form into the Upper Cherwell Basin landscape. It fails to adequately recognise the intrinsic character and beauty of this part of the countryside, nor would it be sympathetic to the landscape setting of the northern edge of Cropredy and the Oxford Canal corridor. The proposal would adversely impact the rural setting of the village and would result in a harmful visual intrusion of development into the landscape and open countryside and would therefore result in harm to the rural character and appearance and quality of the area, and to views from sensitive public receptors, particularly users of the Oxford Canal towpath. The proposal is therefore contrary to Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, Saved Policies C8 and C28 of the Cherwell Local Plan 1996, Policies SP1, CSD25, COM2, COM10, COM14, COM26 and COM27 of the draft Cherwell Local Plan 2042 and the National Planning Policy Framework including paragraphs 135 and 187.
2. The proposed development would be sited in a geographically unsustainable location with poor access to services and facilities and therefore future residents would be highly reliant on the private car to meet their day to day needs which would not reduce the need to travel and would result in increased car journeys and hence carbon emissions. The proposed development therefore conflicts with Policies ESD1 and SLE4 of the Cherwell Local Plan 2011-2031 Part 1, Policies CSD1, CSD22 and CSD23 of the draft Cherwell Local Plan 2042 and Government guidance in the National Planning Policy Framework. This identified harm would significantly and demonstrably outweigh the benefits associated with the proposed development and therefore the development does not constitute sustainable development when assessed against the National Planning Policy Framework as a whole.
3. In the absence of the completion of a satisfactory Section 106 Agreement, the Local Planning Authority is not convinced that the necessary infrastructure directly required as a result of this development, in the interests of supporting the sustainability of the village and the development, and in the interests of safeguarding public infrastructure and securing on site future maintenance arrangements, will be provided. This would be contrary to Policies INF1, PSD1, BSC3, BSC10, BSC11 and BSC12 of the Cherwell Local Plan 2011-2031 Part 1, Policies COM2, COM20, COM23 and COM24 of the draft Cherwell Local Plan 2042, and Government guidance contained within the National Planning Policy Framework.

**IN ADDITION, THAT AUTHORITY BE DELEGATED TO OFFICERS, IN CONSULTATION WITH THE CHAIRMAN OF PLANNING COMMITTEE, TO ADD OR REMOVE REFUSAL REASONS, IN THE EVENT OF AN APPEAL BEING LODGED AGAINST THE REFUSAL, IN LIGHT OF NEW EVIDENCE BECOMING AVAILABLE.**

CASE OFFICER: Nicola Wheatcroft