

WEST OXFORDSHIRE DISTRICT COUNCIL
UPLANDS AREA PLANNING SUB-COMMITTEE

Date: 20th April 2026

REPORT OF THE HEAD OF PLANNING



**WEST OXFORDSHIRE
DISTRICT COUNCIL**

Purpose:

To consider applications for development details of which are set out in the following pages.

Recommendations:

To determine the applications in accordance with the recommendations of the Business Manager. The recommendations contained in the following pages are all subject to amendments in the light of observations received between the preparation of the reports etc and the date of the meeting.

List of Background Papers

All documents, including forms, plans, consultations and representations on each application, but excluding any document, which in the opinion of the 'proper officer' discloses exempt information as defined in Section 1001 of the Local Government Act 1972.

Please note that:

- I. Observations received after the reports in this schedule were prepared will be summarised in a document which will be published late on the last working day before the meeting and available at the meeting or from www.westoxon.gov.uk/meetings

Item	Application Number	Address	Officer
I	23/03071/FUL	Land South of Forest Road Charlbury	Mike Cassidy

Application Number	23/03071/FUL
Site Address	Land South of Forest Road Charlbury Oxfordshire
Date	8 th April 2026
Officer	Mike Cassidy
Officer Recommendations	Approve subject to Legal Agreement
Parish	Charlbury
Grid Reference	435053 E 219433 N
Committee Date	20 th April 2026

Location Map



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Application Details:

Full Planning application for the erection of thirty seven dwellings including access road, landscaping, and associated earthworks.

Applicant Details:

Harper Crewe (Charlbury) Ltd
C/o Agent – Savills

I INTRODUCTION

- 1.1 This application was originally reported to the Uplands Area Planning Sub-Committee on 28th May 2025, when it was deferred. The updated Officer Report was subsequently reported to the Sub-Committee on 21st July 2025. At that meeting the Sub-Committee resolved to approve the application in line with the Officer recommendations, subject to an additional Informative. The Informative required that, when discharging Condition 4 (Travel Plan), the LPA would expect the applicant to consider the feasibility of using the footbridge at Charlbury Railway Station and to provide detail of how this could be used; and that the off-site footpath improvement works secured under Condition 5 (Offsite Highway Works) should consider the feasibility of installing a chicane in the road leading to the railway bridge, similar to other parts of Charlbury, to provide more space to make it easier for pedestrians, cyclists and those with mobility issues to get to and from the station.
- 1.2 Following the resolution, the Section 106 legal agreement was completed and planning permission reference 23/03071/FUL was issued on 29th January 2026.
- 1.3 During the judicial review period, the Council received a pre-action protocol letter from solicitors acting on behalf of a third party. The letter set out a number of potential grounds of legal challenge to the grant of permission. It is not necessary to rehearse the detail of the grounds raised in this report. Members are not asked to make any judgment on the merits of the various contentions advanced..
- 1.4 Having taken specialist legal advice, the Council voluntarily agreed to consent to the quashing of the permission on the basis that the Council did not give express consideration to the matters set out in section 149 of the Equality Act 2010 (the Public Sector Equality Duty, "PSED") prior to the decision being made. The High Court has formally quashed the permission by consent order, and the application therefore falls to be re-determined by the Council on an entirely fresh basis.
- 1.5 The PSED requires a public authority, before taking a decision, to have due regard to the need to
 - a) eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under this Act;
 - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 1.6 In the context of this application, the relevant PSED considerations extend to the potential impacts of the development on all persons sharing a relevant protected characteristic. The particular focus of the assessment, having regard to the nature of the application and the grounds on which the original permission was quashed, is the adequacy of the pedestrian and cycle access arrangements between the proposed development and Charlbury town centre and railway station. This includes having regard to the needs of people with protected characteristics, including those with mobility impairments, disabilities, and others who may be affected by the accessibility of those connections. However, Members are asked to have regard to the various factors generally in the context of the application and to consider whether the development could have an impact on any group with a protected characteristic more broadly.
- 1.7 Since the quashing of the permission, the Council has carried out the exercise required by the PSED. This has included consulting Oxfordshire County Council (OCC) in its capacity as highway authority

and statutory consultee. OCC has been asked specifically to consider the adequacy of the pedestrian and cycle access arrangements in the light of the Department for Transport guidance on footway widths referred to in objectors' representations, and to give its views on the accessibility implications for people with mobility impairments. OCC has confirmed that, having considered those matters, no mitigation is required in respect of the railway footbridge or chicane arrangements, and that the development is considered acceptable in highways terms without reliance on any such improvements. OCC's full response is reported in the relevant section of this report.

- 1.8 Officers wish to clarify that it is not relying solely upon OCC's consultation response to discharge its own obligations under the PSED. Both the Council and OCC have independently had regard to the requirements of Section 149 of the Equality Act 2010 in carrying out their respective assessments. OCC has confirmed that in providing its highways consultation response, it did not approach the matter from a narrow technical highways perspective alone but had explicit regard to the needs of people with protected characteristics, including those with mobility impairments, and to the accessibility implications of the development. The Department for Transport's Guidance on Inclusive Mobility has been taken into account in that assessment. The Council has likewise carried out its own PSED assessment, which is not limited to the railway bridge pinch point but has had regard to the potential impacts of the development on all persons sharing a relevant protected characteristic across all relevant limbs of the duty. Members are asked to note that, given this is a redetermination on an entirely fresh basis following the quashing of the original permission, the PSED assessment now before them represents a materially different and more thorough consideration of these matters than was undertaken prior to the original decision.
- 1.9 Having considered OCC's response and the other material before it, the Council is satisfied that, on the information now available, the accessibility arrangements proposed are acceptable. OCC has raised no objection. The Council is therefore in a position to discharge its PSED obligations properly and to re-determine the application. This report sets out the Officer's assessment and recommendation on that basis.
- 1.10 The planning assessment in the body of this report remains as previously reported, save for the additional material regarding the PSED and OCC's consultation response, and the amendments to specific paragraphs identified below.
- 1.11 The effect of the quashing is that the planning permission is treated as not having been granted. The application therefore falls to be determined afresh by the Sub-Committee on its merits, having regard to the development plan and all material considerations as they stand at the date of this re-determination. The previous resolution of the Sub-Committee carries no formal weight in this process, although the planning merits of the application remain as assessed in this report.

2 CONSULTATIONS

Charlbury Town Council

No objection to the proposal subject to a condition removing the permitted development rights of those houses proposed to erect any buildings (including sheds) but also nonorganic substances (such as hard standing and astroturf) within the 15-metre buffer zone near to the ancient woodland and subject to the assurance that the affordable homes which have changed category (from first homes to social rent and discount market units) will continue to benefit from the same level of discount as previously proposed, and that this discount remains in perpetuity.

Oxfordshire County Council
(OCC) Major Planning
Applications Team

Transport: No Objection subject to conditions relating to Construction Traffic Management Plan, cycle parking, off-site highway works, car parking, and Travel Plan/Travel Information Pack as suggested being attached to any permission granted and a s106 legal agreement being entered into securing a contribution (£41,921) towards Public Transport Service improvements to bus services serving Charlbury and Travel Plan monitoring secured.

Following re-consultation in connection with the re-determination of this application and having regard to the matters raised by Members at the previous committee meeting concerning the railway footbridge, chicane arrangements, and equalities considerations, OCC has confirmed that its original consultation response remains unchanged. OCC has further confirmed that no mitigation is required in respect of the railway footbridge or chicane arrangements, and that in providing its response it has had regard to the needs of people with protected characteristics, including those with mobility impairments, and to the Department for Transport's Guidance on Inclusive Mobility.

Lead Local Flood Authority: No objection subject to condition relating to flooding and drainage as suggested being attached to any permission granted.

Education: No objection subject to a s106 legal agreement being entered into securing a Special Education Contribution (£23,608).

Archaeology: No objection. An archaeological field evaluation was carried out on the site as part of a previous application (Ref: 15/03099/FUL). This was undertaken in line with an approved written scheme of investigation by Cotswold Archaeology. The evaluation did not identify any significant archaeological features. A linear feature or ditch contained some fragments of pottery that are dated from the eleventh to the thirteenth centuries AD. The application area appears to have lain outside any settlement within an area agricultural cultivation. No further archaeological investigation is required and there are no further archaeological constraints to the development of this site.

Waste Management: No objection subject to a s106 legal agreement being entered into securing a Household Waste Recycling Centre Contribution (£3,477).

Cotswolds National
Landscape Board

Objection to the proposal. The Board considers that the proposed development would constitute 'major development' in the context of paragraph 190 of the National Planning Policy Framework ('NPPF'). By extension, based on the definition of major development contained in footnote 67 of the NPPF, we consider that the development merits this status by virtue of its nature, scale

and setting, and its potential to have a significant adverse impact on the purpose of conserving and enhancing the natural beauty of the Cotswolds National Landscape.

Paragraph 190 of the NPPF states that planning permission should be refused for major development other than in exceptional circumstances and where it can be demonstrated that the development is in the public interest.

We consider that those exceptional circumstances have not been demonstrated, and the proposal as submitted does not accord with Policies OS2, EH1 and BC1 of the Local Plan and Policies CE1, CE13, CE14 and CE15 of the Cotswolds National Landscape Management Plan 2025-2030.

We acknowledge that the Council cannot currently demonstrate a five-year land supply. However, we consider that the application of policies in the NPPF, in particular paragraphs 189 and 190, provide a strong reason for refusing the proposed development. As such, we recommend that the 'tilted balance' in favour of granting planning permission is not engaged and the application should be determined on an unweighted planning balance with strong reasons for refusal already present as outlined in Annex 1, which can be viewed on the website.

Charlbury Conservation Area
Advisory Committee

Objection to the proposal on the grounds of its negative impact on the setting of the Charlbury Conservation Area. Policy CHI of the Charlbury Neighbourhood Plan makes no provision for housing on land outside the built up area or genuinely adjoining the built up area. Affordable housing development would only be supported under policy NE1 if '*consistent with the great weight that must be given to conserving and enhancing the landscape, natural scenic beauty ...and heritage of the area*'.

The protection of important views under Policy NE2 requires great weight to be given to important views from the town including the view of the Evenlode valley and the registered landscape of Cornbury Park from the promenade along Grammar School Hill. Most crucial to the present case is policy NE3 which establishes the terms of the planning balance to be undertaken in protecting the Evenlode Valley to the west of Charlbury by requiring a robust demonstration that public benefit of development there outweighed any detriment to the landscape and that a similar benefit could not be achieved in another location in the Neighbourhood Plan area or elsewhere.

It is considered that the public benefit of the proposed development does not outweigh the detriment to the landscape in this case and that a similar benefit in terms of affordable housing could be achieved in another, less sensitive, location.

District Ecologist	<p><u>Biodiversity Officer</u> – <u>No objection</u> subject to conditions relating to ecology, biodiversity, boundary treatment, landscaping, lighting, and Construction Environmental Management Plan as suggested being attached to any permission granted.</p> <p><u>Newt Officer</u> – <u>No objection</u> subject to suggested informative relating to newts being attached to any permission granted.</p>
Environment Agency	No response received.
Natural England	<p><u>No objection</u>. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites but advises that the proposals as presented have the potential to adversely affect woodland classified on the ancient Woodland Inventory. Natural England's generic advice on e.g. Ancient Woodland and the relevant policy tests in the NPPF are discussed below.</p>
Thames Water	<p><u>Waste Comments: No objection</u> subject to conditions relating to foul water drainage and sewage treatment works infrastructure capacity and an informative relating to the requirement for a Groundwater Risk Management Permit from Thames Water as suggested being attached to any permission granted.</p> <p><u>Water Comments: No objection</u> subject to an informative relating to water pressure as suggested being attached to any permission granted.</p>
Thames Valley Police - Designing Out Crime Officer	<p><u>No objection</u> subject to conditions relating to Secured by Design accreditation, defensible space and planting and lighting as suggested being attached to any permission granted.</p>
NHS Buckinghamshire, Oxfordshire, and Berkshire West Integrated Care Board	<p><u>No objection</u> subject to a s106 legal agreement being entered into securing a contribution (£33,529) towards the creation of additional clinical capacity at Charlbury MC or an identified primary care estates project in the local area to serve the development.</p>
Wildlife Trust	No response received.
WODC Arts, Leisure, and Tourism	<p><u>No objection</u> subject to a s106 legal agreement being entered into securing a contribution (£3,780) towards developing a temporary public art programme for future residents' of the development post occupation.</p>
WODC Climate	No response received.
WODC Conservation And Design Officer	<p>The Evenlode valley is a crucial feature of the Charlbury Conservation Area, both in terms of its strong riparian</p>

character, and also in the way it has largely contained the built development of the settlement to its eastern side. The current site sits on the western side of the valley, on rising ground.

Because of this topography, the site is prominent in views from the settlement - particularly from Dyers Hill and Grammar School Hill - and also in views towards the settlement – particular from the main western approach, along Forest Road. And whilst vegetation masks the site to a degree in some views, we would not wish to rely on green screening in perpetuity – particularly in these days of climate change.

Although there is existing, somewhat workaday, development adjacent to the north-eastern edge of the site (and also the Grade II listed railway station), the character of the site itself remains essentially pastoral, with some trees. Until recently there was, in fact, fairly copious vegetation with mature trees on the lip of the valley, under which the site nestled to a degree, although this has largely gone, arguably increasing the prominence of the site against the skyline.

In summary, it seems that almost any development on the site is likely to make an impact upon the setting of the conservation area, particularly if it occupies the land rising to the south-west.

Turning to the current proposal, 37 dwellings are proposed, mostly flanking a road running along the mid-height contour, although with a spur running to the higher ground to the south-west -and pretty much following the constraints imposed by the shape of the site. There are garages to the market houses, with parking spaces generally set beside and between the other properties. The general layout appears fairly workable and is roughly similar to that approved under 15/03099/FUL. But it does nonetheless push dwellings up to the most prominent highest ground.

There is a range of house designs, which are now considered to be acceptable in design and appearance. The layout of the revised scheme is broadly similar, but the primary road is now curved, with radial positioning of the buildings. This gives a more natural fit for the contours and could create a little more interest. The houses now have simpler massing and simpler elevational treatments - and they are now more securely rooted in the typical neo-vernacular.

My main criticism with this scheme remains that the single storey buildings should be on the higher ground to the west – with the taller buildings tucked down at the east side, nearer to existing development. I would have advised that there should be no development at all on the higher ground, but we previously supported this – whatever the status of the previous consent.

Anyway, as it stands, I would judge that there is indeed harm to the setting of the conservation area – because the Evenlode valley has previously pretty much formed a limit to built development, with a rural feel on the west side. However, as there is already some development adjacent to the site, around the railway, I would judge the harm to be somewhat less than substantial.

But admittedly, the principle of development here has previously been accepted, and there is a considerable amount of non-market housing here to weigh in the balance.

WODC Environmental
Health Air Quality

No objection to the proposal. The inclusion of photovoltaics, cycle storage and electric vehicle charging (including e-bikes & scooters) in each property and proposals to improve the pedestrian footpath from the site to Charlbury itself are welcomed and should be conditioned in any permission granted.

WODC Environmental
Health Contamination

No objection subject to condition relating to contamination as suggested being attached to any permission granted.

WODC Environmental
Health Noise and Amenity

No objection subject to a noise condition as suggested being attached to any permission granted.

WODC Housing

Support for the proposal. The site is within the medium value zone meaning a requirement under Local Plan Policy H3 - Affordable Housing to provide 40% of the completed dwellings as affordable housing. The scheme proposes providing 57% of the dwellings as affordable housing, exceeding the 40% policy requirement in medium-value areas.

The affordable housing dwellings proposed for rental will be of Social Rent tenure which is prioritised by the Council. Intermediate dwellings are proposed as Discount Market Sale tenure. Previous iterations of the scheme have proposed for these dwellings to be provided as First Homes tenure which would be preferred by the Council. It is proposed that an element of the affordable housing is used for specialised housing to meet the commissioning needs of Oxfordshire County Council. It is requested that development not commence until WODC and OCC are satisfied that ownership, management arrangements, commissioning requirements, and deliverability requirements are in place.

The proposals include self/custom build dwellings intended to meet the indicated demand for such housing held on the Council's register. A delivery statement should be provided to, and agreed by, the Council to ensure that these dwellings are secured for this purpose, offer sufficient customisation options to purchasers and meet the intentions of the self/custom build legislation.

WODC Sports and Leisure	<u>No objection</u> subject to a s106 legal agreement being entered into securing contributions toward outdoor pitch provision (£73,194.14), artificial pitch provision (£2,626), sport hall/ studio provision (£17,116), swimming pool provision (£20,648), and tennis court provision (£1,318) within the catchment area.
WODC Planning Policy Manager	<u>No objection</u> to the proposal.
WODC Tree Officer	<u>No objection</u> to the proposal. No trees are planned to be removed from the site as part of the development. The proposed planting scheme is adequate in terms of numbers. All existing trees on the site are to be retained with a 5m landscaped buffer zone directly next to the Ancient Woodland, together with a further 10m zone kept free of any built development, This is adequate to protect the Ancient Woodland from activities connected with the development, as such the roots of the trees that are growing in the Ancient Woodland adjacent to the site will be safeguarded against damage or compaction during the construction phase and later use of the site.

3 REPRESENTATIONS

3.1 A summary of the representations received are detailed below. Full details can be viewed on the Council's website.

3.2 144 responses have been received objecting to the application on the following grounds:

- The proposal has not demonstrated the 'exceptional circumstances' required to justify development of this site. It fails to meet the essential criterion (the site is not 'land adjoining the built up area') set out in Policies NE1-NE3 of the Charlbury Neighbourhood Plan and would be in conflict with the Development Plan.
- Unsuitable location for housing.
- Overdevelopment of the site.
- There are better sites available for needed housing which genuinely connect to the town.
- The proposal, with its isolated, density-gradient design, clashes with the established character and heritage value of the town's valley setting. This disconnect not only undermines the area's charm but also sets a dangerous precedent for future harmful development that could compromise the historical integrity of the town.
- Inappropriate design and layout.
- Harmful to the character and appearance of the Charlbury Conservation Area.
- The visual impact of the development of this site, in the face of the town, important listed buildings and the enveloping Conservation Area, will significantly harm the town's heritage valley setting.
- The site has been contaminated by industrial waste dumped from Charlbury's former gas works.
- Increased danger of flooding.
- Unneighbourly form of development.
- Adverse landscape impact.

- Detrimental impact on the AONB and Cotswold National Landscape.
- Insufficient woodland buffer.
- Threat to local wildlife.
- Impact on local biodiversity and ecology.
- Unsustainable form of development.
- Inadequate pedestrian footway, especially for disabled users.
- The nearby station building is Grade 2 listed, its setting will be changed considerably if a housing estate were to be built in the field opposite.
- Impact on trees and hedgerows on railway land on the far side of the track.
- Prominent development that would not enhance this area of outstanding natural beauty.
- Lack of parking provision.
- Significant increase in traffic from car journeys to and from the Town.
- Prejudicial to highway safety.
- Undue strain on local services and amenities.
- The potential harm associated with this development scheme far outweighs any perceived benefits.

3.3 19 responses have been received in support of the application on the following grounds:

- Much needed affordable housing for local families and the community of Charlbury.
- The supported living/extra care units proposed will meet the priority needs of the County Council, including young onset dementia. Homes England, the Government's funding agency, is supporting the development with grant funding.
- The development gives hope to many local people that their families may have a chance to stay in the area and afford a house of their own.
- The proposal represents a much needed addition to the Charlbury housing stock in an appropriate location.
- The proposal is on poor agricultural land within earshot of the station, near to a busy industrial estate, just upstream from the sewage works and opposite the old gasworks site.
- The site has excellent rail links nearby and a good footpath into town, where there are excellent town facilities and a good bus service connecting local towns and villages.
- The position of the development will have minimal impact on the town and can only prove to be a positive addition.
- The local school has a shortage of pupils so there will not be any overly large classes which is another plus for Charlbury. There is also a nursery next to the railway station.
- Sensitive planned and designed with the provision of a 5 metre buffer area around the site with built development being located a further 10 metres away.
- Care and consideration has been taken to protect local ecology. The ecological survey provided demonstrates that many of the species of birds/animals etc will remain unaffected as there seems to be little evidence of their activity. Where there is activity, surrounding fields/scrubland would provide adequate shelter/foraging for the animals.
- The project has taken into account the environment and preservation of its natural beauty and would not significantly endanger wildlife nor negatively impact the AONB.
- The inclusion of public transport infrastructure in the proposal has to be commended. Not only will that benefit the future residents of Rushy Bank, but it has the potential to positively impact the whole of the town.

- The development will help preserve Charlbury's character as a bustling rural town.
- Highly sustainable dwellings built to exceed building regulations standards and constructed to net zero standards.
- The development would comprehensively meet the objectives of the Charlbury Neighbourhood Plan and its policies delivering wider benefits that outweigh any harm.

3.4 Campaign to Protect Rural England:

Objection to the proposal for the following reasons:

- Landscape - all new housing has historically occurred to the north and east of the Town without encroaching on the setting of Charlbury from the Wychwood Forest and Burford direction. It would be landscape vandalism if residential buildings encroached on the northern side of the river. This is illustrated perfectly in the LVA's wireframes 23b and 23c from Grammar School Hill, arguably the most beautiful sweeping view of the Evenlode Valley and Cornbury Park from Charlbury, and enjoyed by walkers, runners, cyclists, and others. The development would appear as a hamlet completely divorced from the rest of the Town and isolated by the natural river boundary and the man-made railway boundary. A weak bridge allowing up to 7.5 tonnes and poor pavement is the only link to Charlbury. Much has been made of additional tree planting to mitigate the landscape damage, but the tree canopy proposed is far less than the height of the two storey dwellings. Any sight of buildings would detrimentally change the views of the Evenlode Valley from Charlbury and the approach to Charlbury from the south. As such, it is concluded that a development on this site would have a major adverse impact on the landscape setting of Charlbury Conservation Area as well as the local landscape character of the Cotswolds AONB well beyond the 10 years post completion.

In addition, OCC Highways would also have to improve road safety (particularly for the bungalow residents who may be elderly and/or disabled) thus ruining the landscape setting even more with street furniture, streetlights, width restrictions, or buildouts. Not only would be visual impact be devastating from the development itself, but the resulting changes also needed for pedestrians would be adverse to the approach to Charlbury as well as creating obstacles for recreational cyclists who use this route daily.

- Tranquillity and noise pollution - this would be a major development in the wrong location that would lead to increased noise pollution, both during and after construction. There would be increased traffic noise as not all residents will be commuters to London and Oxford, and many will drive to the main shopping centres Witney and Chipping Norton, rather than use the bus which is 15 minutes' walk away. This is even more likely in inclement weather. Busy working parents also rely on cars to ferry children to the school before getting to work on time themselves. There would inevitably be more traffic, clog up the pinch point at the top of Dyers Hill, and have an adverse impact on the tranquillity of the AONB and Charlbury.
- Biodiversity, light, and water pollution - the Ecological Assessment (EA) states that whatever mitigation measures are put in place, there will be an adverse increase in light pollution. It is also unclear why the EA concludes this site is not important for foraging bats since Table 2 (3.31) shows evidence that the bat count has doubled (between 2011 - 2022, 7 species were counted and now it has increased to 14) "*in this case there will be housing adjacent to the [ancient] woodland and inevitably there will be an increase in noise and light levels [and] the site will still be lighter than the current baseline...this would however also be the case with a 15m buffer*" (Appendix 2 para 5 p34). The report

is dismissively indifferent to a 5 or 15 metre buffer, the latter is recommended by Natural England. Simply put, there will be more light pollution which will detrimentally affect nocturnal species of bats and invertebrates. CPRE West Oxfordshire considers light pollution will have a major adverse effect for biodiversity and dark skies.

The EA's assessment of biodiversity net gain also does not take into account the increased damage to the ancient woodland through human and domestic pet encroachment. *"There is a risk over time house owners may dispose of garden and other waste over the back fence of the property. The 5 m buffer will prevent such material entering the woodland and subject to future management arrangement it will also provide a buffer that can be managed. In terms of domestic pets cats will be able to access the woodland, but as cats range over distances much further than 15m no additional impacts from a 5m as opposed to a 15m buffer would occur"*. Currently the river acts as a deterrent to cats but building 37 houses right next to a woodland on the Rushy Bank site would open up a vast hunting area and have a devastating impact to the flora and fauna within and around the site.

Lastly, at the time of writing there was no response from Thames Water regarding the application for the adoption of an on-site foul water drainage system. Without this, CPRE West Oxfordshire cannot be certain capacity will be enough to avoid an increase in sewage outflow into the River Evenlode. It is therefore unclear what off mains drainage is being asked for and whether it would be managed sustainably or if the chemicals used would be damaging to biodiversity at the disposal stage.

3.5 Friends of Evenlode and West Oxfordshire Cotswolds

Objection to the proposal for the following reasons:

- Principle of development - The High Court's quashing of the s73 consent granted by WODC means there is now no extant consent on this site and the principle of developing it must be reconsidered. The applicant's claims of some legal standing to the partially constructed access and other works is rebutted by the High Court ruling that the commencement of development was unlawful. The proposal would be harmful to the Conservation Area, AONB Open Countryside and Cotswolds National Landscape contrary to the Charlbury Neighbourhood Plan.
- Flawed interpretation of Ancient Woodland Guidance - the applicant argues incorrectly that less than significant deterioration of the woodland is an acceptable harm. The NPPF (paragraph 193 (c)) obligates refusal where any deterioration of the woodland would result. Natural England guidance on the policy is completely clear that a 15 metre buffer is a minimum and, where indirect harms extend, the buffer must be increased, as is the case here. The indirect harms of this proposal extend further than the 15 metre minimum in part because of the felling which the landowner undertook and the residential nature of this development. The dense woodland edge which previously provided protection and would be expected, has been removed and 24 hour residential occupation including by domestic pets would require increased levels of buffer.
- The tilted balance and Local Plan housing numbers – the Council's inability to demonstrate a 5 year housing land supply does not impact the determination of this application as the application of policies in the NPPF that protect areas and assets of particular importance (the AONB, Listed Buildings and the Charlbury Conservation Area as designated heritage assets, and the ancient woodland) provide a categorical reason for refusing the development application. The inclusion of this development in the Local Plan Housing Supply calculation is now irrelevant and directly contrary to the findings of the Local Plan inspection (see para 224 of the inspector's final report) in which the inspector concluded that policies in the Local Plan that require development in the Burford-

Charlbury sub-area to respond only to local need were sound on the basis of the “significant opportunity for general development needs to be met outside the AONB”.

- Highways - the continued acceptance by OCC of the adequacy of the footpath improvements approved under 15/03099/FUL is contrary to minimum footpath standards and puts pedestrians moving to and from the proposed site at material risk. The lack of safe pedestrian access marks the development as unsustainable creating an unacceptable amenity impact on Charlbury town centre users and residents from unnecessary additional vehicle movement and parking.
- Levelling-Up and Regeneration Act 2023 (LURA) amendment to Countryside and Rights of Way Act 2000 s245 (6)-(10) – In December 2023, the Local Planning Authority’s (LPA) statutory obligations towards protected landscapes in determining planning applications changed from a need to have regard to the statutory purpose of AONBs to a positive duty to “seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty”. Furthermore, LPAs in AONBs are now required to “contribute to the implementation of” protected landscape management plans, in this case the Cotswolds National Landscape Management Plan 2023-2025. The objections of the Cotswolds Conservation Board to this application require resolution to comply with those statutory obligations.
- The importance of this site to wildlife conservation: LURA – Nature Recovery Networks - the LURA now requires Local Plans to take account of Local Nature Recovery Strategies (LNRS). The site has been identified as a Nature Recovery Area in the draft Oxfordshire LNRS, consultation on which completed on 1 December 2024.
- Non-compliance of ancient woodland replanting scheme - the proposed replanting of the woodland in accordance with the plan on p31 of the revised Planning Statement is outside the development site and the control of the applicant and therefore cannot be relied on or considered and further submit that this replanting breaches the Forestry Commission's felling licence conditions. The licence permitted the creation of open space (0.07ha) within the hazel woodland and not within the poplar plantation which directly abutted the development boundary. The licence therefore requires replanting of the woodland right up to the development boundary. The Forestry Commission will review compliance with the licence at its expiry.

4 APPLICANT'S CASE

4.1 The submitted Planning Statement concludes as follows:

“The Council cannot currently demonstrate a five year land supply. In such cases, the requirements of paragraph 11 of the NPPF are pertinent. It is acknowledged that the NPPF at paragraph 11 notes that ‘where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed’ The NPPF identifies the AONB and Ancient Woodland (as irreplaceable habitat) as having specific protection.

The proposed development would not have an adverse impact upon the ancient woodland and how the development constitutes exceptional circumstances to justify development in the AONB. Exceptional circumstances are considered to be demonstrated given the provision of housing, particularly affordable housing, in an area where opportunities are rare and where there is a distinct need identified both in the Local plan and the Neighbourhood Plan. The opportunity to provide for these local communities is not

possible outside of the AONB given the reach of the AONB in the District (and in particular this sub area) and the impact upon the AONB is limited given the contained nature of the site and the comprehensive landscaping scheme which is proposed as part of the application.

Additionally, it is demonstrated that the limited less than substantial harm which is caused to the heritage assets (adjacent train station building) would be outweighed by public benefits. The assessment demonstrates that the proposals would meet with the requirement of specific paragraphs of the NPPF in relation to Ancient Woodland and the National Landscape.

Furthermore, it is outlined that there are no strong reasons to refuse planning permission. On this basis, the titled balance applies, and planning permission should be granted unless: '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.' (Paragraph 11 d) ii.)".

5 PLANNING POLICIES

OS1NEW Presumption in favour of sustainable development
OS2NEW Locating development in the right places
OS3NEW Prudent use of natural resources
OS4NEW High quality design
OS5NEW Supporting infrastructure
H1NEW Amount and distribution of housing
H2NEW Delivery of new homes
H3NEW Affordable Housing
H4NEW Type and mix of new homes
H5NEW Custom and self-build housing
T1NEW Sustainable transport
T2NEW Highway improvement schemes
T3NEW Public transport, walking and cycling
T4NEW Parking provision
EH1 Cotswolds AONB
EH2 Landscape Character
EH3 Biodiversity and Geodiversity
EH4 Public realm and green infrastructure
EH5 Sport, recreation and childrens play
EH7 Flood risk
EH8 Environmental protection
EH9 Historic environment
BC1 Burford – Charlbury sub-area strategy
CHARLNP Charlbury Neighbourhood Plan
The Cotswolds National Landscape Management Plan 2023-2025
NPPF 2024
NATDES National Design Guide
DESGUI West Oxfordshire Design Guide

6 PLANNING ASSESSMENT

- 6.1 The site measures approximately 2.4 hectares in area and comprises an open grass paddock. It lies to the west of the village of Charlbury on the southern side of Forest Road (B4437) adjoining the enclave of development to the rear of the railway station. Rushy Bank Ancient Woodland marks the

western boundary of the site, which lies within the Cotswolds National Landscape (formerly AONB). The Charlbury Conservation Area lies on the eastern side of the railway line.

- 6.2 The proposal is for the erection of 37 dwellings including access road, landscaping, and associated earthworks. The Planning Statement (PS) states that the proposed development would offer a mix of 1-bedroom to 4 -bedroom dwellings comprising market, affordable, and specialist accommodation for older people and/ or those with disabilities. This would include 21 affordable housing (15 social rent and 6 discount market) dwellings, including 7 one bedroom assisted living bungalows, and 16 market housing dwellings, of which 12 would be self-build.

Background Information / Relevant Planning History and Judicial Review Judgements

- 6.3 Planning permission was granted for a residential development of 25 dwellings comprising self/custom build, market housing and affordable housing (use class C3) and a 12 bed supported living (sui generis) facility with associated access, parking, and landscaping subject to a s106 agreement on 20th January 2020 (Ref: 15/03099/FUL). At the time of the Sub-Committee's resolution to grant in December 2017, the Council's housing supply calculations (as of February 2015) confirmed that the District had a five year land supply. As part of this permission, ecological assessments and biodiversity management plans proposed a 5m buffer zone between the proposed development and the Ancient Woodland to the west.
- 6.4 An application was then made to discharge conditions 3 (parking details), condition 6 (construction traffic management plan), condition 7 (surface water drainage scheme), condition 8 (construction management plan), condition 12 (scheme of hard and soft landscaping) and condition 13 (trees in relation to design demolition and construction) of this permission in January 2022, which was approved in August 2022 (Ref: 22/00254/CND). Documents submitted to discharge these conditions showed the implementation of the 5m buffer zone. At this point, the approved plans showed that the 5 metre buffer was not achieved at three locations along the western boundary.
- 6.5 Material operations started on site in September 2022 in line with the details approved under application 22/00254/CND. These works involved the creation of the current vehicular access into the site along Forest Road. These works were confirmed by the Council as constituting a material commencement of development.
- 6.6 Following the approval of application 22/00254/CND, a local action group, called the Friends of the West Oxfordshire Cotswolds ("FWOC") then brought judicial review proceedings in respect of this discharge of conditions approval, which focused upon the proposition that the approval of the Ecological Management Plan and Construction Management Plan did not account for the impossibility of achieving a 5-metre buffer around the site as required by condition 8 of the original approval. It was also concluded that condition 13 had not been fully complied with on the basis that the tree protection measures did not fully comply with the required British Standard. Access to the site was not an issue in these proceedings. In April 2023, the discharge of conditions approval was quashed by HHJ Jarman KC in the case of R (on the application of Friends of West Oxfordshire Cotswolds) v West Oxfordshire DC [2023] EWHC 901 (Admin).
- 6.7 The discharge of condition application (Ref. 22/00254/CND) was subsequently referred back to the Council for determination and remains live but undetermined.
- 6.8 In order to try and overcome the main ground of challenge, an application was then made in November 2022 pursuant to section 73 of the Town and Country Planning Act 1990 (TCPA 1990)

for a “Variation of conditions 2, 3, 6, 7, 8 and 12 of permission 15/03099/FUL to adequately address land level changes and to ensure that a suitable ecological buffer is provided around the edge of the development” (Ref. 22/03294/S73). This application sought approval for amendments to the house types and layout previously approved to allow for the recommended 5 metre ecological buffer around the edge of the site to be provided in all locations and to ensure that level access could be achieved.

- 6.9 Following the approval of planning permission in March 2023, ground works began on site in the form of laying out of concrete foundations for one plot of the Section 73 development. These works were also considered by the Council to establish that a material commencement of 22/03294/S73 had taken place.
- 6.10 In May 2023, FWOC subsequently challenged the Section 73 permission (Ref. 22/03294/S73) on the grounds that the Council had no power to grant the Section 73 permission because the original planning permission (Ref: 15/03099/FUL) had expired without being lawfully commenced. In September 2024, Morris J. handed down a judgment (R(on the application of Friends of West Oxfordshire Cotswolds) v West Oxfordshire DC [2024] EWHC 2291 (Admin)) quashing the Section 73 consent on that basis.
- 6.11 The question of whether the previous permissions granted (Refs. 15/03099/FUL, 22/00254/CND and 22/03294/S73) by the Council are extant or not was answered unequivocally in the 2024 judicial review proceedings/litigation in respect of the Section 73 permission. In that case, Morris J. held that the effect of the earlier litigation was that at the time that the Section 73 permission (Ref. 22/03294/S73) was granted that the Courts had retrospectively quashed the discharge of condition permission (Ref. 22/00254/CND) in respect of the original permission (Ref. 15/03099/FUL). At paragraph 95, Morris J. concludes that the original permission was not lawfully commenced and at paragraph 114 that the Section 73 permission had to be quashed since at the time it was granted the original permission had expired.
- 6.12 It follows therefore that at this point there is no fall-back permission in the sense that there is no extant implementable consent that has a realistic prospect of being implemented or delivered in the future.
- 6.13 That said, it is well established that the planning history of a site, including even previous, expired grants and refusals of permission, may be a relevant consideration to the determination of a planning application: see *North Wiltshire District Council v Secretary of State for the Environment* [1993] 65 P. & C.R. 137 per Mann L.J. at 145.
- 6.14 Where a previous decision to grant planning permission has been quashed and is of no *legal* effect, the underlying reasoning in that previous decision can still be a material consideration to be taken into account, with its relevant and weight depending on, for example, the parts unaffected by the quashing: see *R (Davison) v Elmbridge BC* [2019] EWHC 1409 (Admin) at paragraph 56. The greater the inconsistency with the previous decision the more need for an explanation: *Davison* at paragraph 56.
- 6.15 Thus, in this case, there is no “fall-back” position for the applicant to rely upon, but it is material that in the past the LPA has concluded that the planning balance weighed in favour of the grant of permission, and that whilst there is no obligation for like cases to be decided alike, nonetheless if a decision maker were to reach a different conclusion to a past decision maker, then it will be obliged to provide a rational reason for doing so (see *N. Wilts* (supra)). It is also relevant to note that since

the approval of application 15/03099/FUL in January 2020 and application 22/03294/S73 in March 2023 the Council is no longer able to demonstrate a five-year land supply.

- 6.16 Planning permission reference 23/03071/FUL was granted by the Council on 29th January 2026 following the resolution of the Uplands Area Planning Sub-Committee on 21st July 2025. The permission was subsequently quashed by the High Court by consent order. The application is therefore before the Sub-Committee for re-determination.
- 6.17 The effect of the quashing is that the planning permission is treated as never having been granted. The application therefore falls to be determined afresh by the Sub-Committee on its merits, having regard to the development plan and all material considerations as they stand at the date of this re-determination. The previous resolution of the Sub-Committee carries no legal weight in this process, although its view on the planning merits can be material. Members are referred to Section I of this report for further detail on the background to the quashing.

Amendments during the course of the application

- 6.18 During the course of the application, the following additional information and amendments have been received:
- Realignment of the access point for refuse vehicle tracking in response to comments from OCC Highways;
 - Substitution of house types on plots 1, 2, 4, 5, 6, 7, 8 and 9 in response to WODC Conservation and Design Officer comments;
 - Updated landscaping proposals to include a woodland planting block;
 - Amended Ecological Impact Assessment responding to the changes to the landscape proposals and a Landscape Ecological Management Plan has been prepared to support the application.
 - Amended Site Layout;
 - Coloured Layout;
 - Materials Plan;
 - Means of enclosure plan;
 - Surface materials plan;
 - Construction Environmental Management Plan (CEMP);
 - Storey Heights Plan;
 - Refuse Strategy Plan;
 - Charlbury House type Pack;
 - Charlbury Street Scenes;
 - Landscape Layout;
 - Design and Access Statement;
 - Tracking Plans (1-3);
 - Amended Ecology Report and recalculated Biodiversity Net Gain (BNG);
 - Amended Energy and Sustainability Statement;
 - Updated Transport Statement;
 - Updated Flood Risk Assessment;
 - Acoustic Assessment; and
 - Landscape Visual Impact Assessment (including appendices of plans, Photos and Wireframes);
- 6.19 Taking into account planning policy, other material considerations and the representations of interested parties, officers are of the opinion that the key considerations of the application are:

- Principle of Development
- Impact on Landscape/Setting of Cotswolds National Landscape (AONB)
- Affordable Housing/Housing Mix
- Layout, Design and Scale
- Impact on Heritage Assets
- Highway Impact and Pedestrian Accessibility
- Residential Amenity/Noise/Air Quality
- Flood Risk/Drainage/Water Supply
- Ancient Woodland/Trees/Biodiversity
- Sustainability/Climate Change
- S106 Contributions

6.20 Each of the above considerations are fully considered in the following sections of this report.

6.21 Members are reminded that this application falls to be determined entirely afresh. Officers have reviewed all material associated with the application to consider whether there have been any changes in circumstances since the previous determination. The ecological surveys submitted in support of the application were carried out in 2023, with the Biodiversity Net Gain Assessment updated in 2024. An ecology update, comprising a desk study and habitat survey, was carried out by BSG Ecology in April 2026 (survey date: 2 April 2026). Officers are satisfied that the ecological baseline has not changed significantly since the 2023 assessment and that the surveys remain current. One further objection has been received since the date of the previous committee report; this has been included in the representations section at paragraph 3.2 and does not raise any new issues not already addressed in this report.

Principle of development

6.22 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. Section 70 (2) of the TCPA 1990 provides that the local planning authority shall have regard to the provisions of the development plan, as far as material to the application, and to any other material considerations. In the case of West Oxfordshire, the Development Plan is the Local Plan 2031 adopted in September 2018.

Development Plan Policies

6.23 Policy OS2 of the Local Plan sets out the overall strategy on the location of development for the District. It adopts a 'hierarchical' approach, with the majority of future homes and job opportunities to be focused on the main service centres of Witney, Carterton, and Chipping Norton, followed by the rural service centres of Bampton, Burford, Charlbury, Eynsham, Long Hanborough, Woodstock and the new Oxfordshire Cotswolds Garden Village (now referred to as Salt Cross) and then the villages as set out in Policy OS2.

6.24 Charlbury is identified as a rural service centre in the Local Plan. Nevertheless, this site lies outside the village, within the open countryside and Policy H2 sets out that new dwellings will only be permitted where they comply with the general principles set out in Policy OS2 and in certain circumstance including, inter alia, where there is a specific local need that cannot be met in any other way.

6.25 Policy BC1 sets out that within the Burford-Charlbury sub-area the focus of new development will be in Burford and Charlbury and that these towns are relatively constrained by their AONB locations so are suitable for a modest level of development. It goes on to state that development elsewhere will be limited to meeting local housing, community and business needs and will be steered towards the larger villages. The Local Plan recognises that housing affordability is a key issue in Charlbury.

6.26 Policy BC1 also sets out specific requirements for development in the open countryside within the Burford-Charlbury sub-area. It provides that development outside Burford and Charlbury will be limited to meeting local housing, community, and business needs. As the application is assessed as being in open countryside under Policy H2, the provisions of BC1 are also engaged. For the reasons set out in respect of Policy H2 at paragraph 6.31, Officers are satisfied that the development meets a specific and evidenced local housing need that cannot be met in any other way, and is therefore consistent with the objectives of Policy BC1 in that regard

6.27 Policy CH1 of the Charlbury NP supports a modest level of new housing where it helps to reinforce the existing role of Charlbury as a rural service centre. Development is supported on sites within and adjacent to the built-up area. It specifically identifies that the station complex and the Rushy Bank development (Ref. 15/03099/FUL) are not regarded as part of the built-up area for future planning purposes.

6.28 Policy OS2 also sets out general principles for all development. Of particular relevance to this proposal is that it should:

- a) Be of a proportionate and appropriate scale to its context having regard to the potential cumulative impact of development in the locality;
- b) Form a logical complement to the existing scale and pattern of development and/or the character of the area;
- c) As far as reasonably possible protect or enhance the local landscape and its setting of the settlement;
- d) Not involve the loss of an area of open space or any other feature that makes an important contribution to the character or appearance of the area;
- e) In the AONB, give great weight to conserving landscape and scenic beauty and comply with national policy concerning major development;
- f) Conserve and enhance the natural, historic, and built environment; and
- g) Be supported by all the necessary infrastructure.

6.29 Policy H2 sets out that new dwellings will be permitted at the main service centres, rural service centres, and villages in the following circumstances:

- On sites that have been allocated for housing development within a Local Plan or relevant neighbourhood plan;
- On previously developed land within or adjoining the built-up area provided the loss of any existing use would not conflict with other plan policies and the proposal complies with the general principles set out in Policy OS2 and any other relevant policies in this plan;
- On undeveloped land within the built-up area provided that the proposal is in accordance with the other policies in the plan and in particular the general principles in Policy OS2;
- On undeveloped land adjoining the built-up area where convincing evidence is presented to demonstrate that it is necessary to meet identified housing needs, it is in accordance with the distribution of housing set out in Policy H1 and is in accordance with other policies in the plan in particular the general principles in Policy OS2.

- 6.30 The application site does not form part of the built-up area of Charlbury, nor does it adjoin it. Policy CHI of the Charlbury Neighbourhood Plan at paragraph 5.3.4 expressly confirms that the station complex and the Rushy Bank development are not regarded as part of the built-up area for future planning purposes. The Council's Planning Policy Team confirmed the same position in their consultation response. The site falls to be assessed as open countryside for the purposes of Policy H2 of the Local Plan. The relevant policy test for new dwellings in open countryside is therefore that there is a specific local need that cannot be met in any other way. For the reasons set out below, Officers are satisfied that test is met.
- 6.31 Policy H2 sets out that new dwellings will only be permitted in the open countryside where there is a specific local need that cannot be met in any other way. Officers are satisfied that this test is met in this case. There is a significant and evidenced affordable housing need in Charlbury, with over 100 applicants on the Council's waiting list expressing a preference for Charlbury, and an identified need for 23 affordable homes in the CNP. The proposals also provide specialist bungalow accommodation for those with mobility needs. Officers consider that this need cannot be met in any other way at present, having regard to the absence of any housing allocations in Charlbury in the Local Plan and the lack of any alternative deliverable sites. The provision of affordable housing and specialist accommodation are therefore important benefits that weigh significantly in favour of the proposal. The affordable housing provision secured, and the housing need evidence are addressed in detail below.

National Policy/Guidance

- 6.32 The National Planning Policy Framework (NPPF) (2024) sets out the Government's planning policies and how these are expected to be applied. The NPPF advises that the purpose of the planning system is to contribute to the achievement of sustainable development and sets out that there are three dimensions to sustainable development: economic, social, and environmental. In essence, the economic role should contribute to building a strong, responsive, and competitive economy; the social role should support strong, vibrant, and healthy communities; and the environmental role should contribute to protecting and enhancing the natural, built, and historic environment. These roles should not be undertaken in isolation, because they are mutually dependant.
- 6.33 At the heart of the NPPF is a presumption in favour of sustainable development and paragraph 11 advises that for decision-making this means approving development proposals that accord with an up-to-date development plan without delay, or where policies that are most important for determining the application are out-of-date, permission should be granted unless:
- i. the application of policies in the Framework that protect areas or 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 the 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.
- 6.34 The NPPF requires local planning authorities to demonstrate an up-to-date five year supply of deliverable housing sites. Where local authorities cannot demonstrate a five-year supply of deliverable housing sites, paragraph 11 of the NPPF, as set out above, is engaged (as identified in footnote 8).

- 6.35 Where policies are considered ‘out of date,’ planning permission should be granted unless the application of policies in the framework that protect areas or assets of particular importance provide a strong reason for refusing the development proposal; or, where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the framework taken as a whole. The NPPF further notes that this should have particular regard to ‘key policies directing development to sustainable locations, making effective use of land, securing well designed places, and providing affordable homes, individually or in combination.
- 6.36 The Site is within the Cotswold National Landscape. Paragraph 11 d) i) at footnote 7 identifies that the AONB and ‘irreplaceable habitats’ are considered to be areas or assets of particular importance where the NPPF provides specific guidance regarding protection of these areas.
- 6.37 In relation to the National Landscape paragraph 189 notes that great weight should be given to conserving or enhancing landscape and scenic beauty and that the extent of development in these areas should be limited. Paragraph 190 outlines that major development in these areas should be refused other than in exceptional circumstances.
- 6.38 The site is adjacent to Ancient Woodland which are identified as irreplaceable habitats. In this context paragraph 193 c) notes that development resulting in the loss or deterioration of irreplaceable habitats should be refused unless there are wholly exceptional reasons, and a suitable compensation strategy exists. Examples of wholly exceptional reasons are identified in footnote 70 of the NPPF as including infrastructure projects where the public benefit would clearly outweigh the loss or deterioration of habitat. This list is not exhaustive, and it is not the case that only infrastructure projects carry public benefit of such magnitude that can clearly outweigh any loss or deterioration to irreplaceable habitats.
- 6.39 All these matters will be considered further in the relevant sections of this report.
- 6.40 The Government has also recently finished consultation on a new draft NPPF. Given the stage it is at the time of determination Officers do not consider this can carry any more than very limited weight.

“Fall Back” Permissions

- 6.41 Residential development has previously been approved on this site and whilst there is no “fall back” position to rely upon, having regard to the materially similar circumstances of the two previous decisions granted, Officers consider that the planning history of the site is a material consideration of great weight in the determination of this application. Even though these permissions do not mandate any particular outcome in this application, as a matter of judgment Officers take the view that the position that was reached in the previous permissions remains valid and there are no reasons to depart from it for the reasons set out below.

Relevant Planning History

- 6.42 A key consideration for the decision maker (i.e. the LPA) is whether there are any material changes in planning circumstances since the consideration of the previous applications when compared to the current application. The previous approval (Ref. 15/03099/FUL) was considered in the context of the previous Local Plan which was less permissive in relation to the location of dwellings. The Officer’s report for this previous determination identified that the Local Plan at that time (the 2011 Local Plan) generally resisted greenfield development beyond settlement boundaries. The report also indicates

that this site is considered to be in an edge of settlement location. The context is therefore that the previous approval (Ref. 15/03099/FUL) was considered acceptable in planning terms in circumstances where policy was less favourable to development of this type. The subsequent Section 73 permission (Ref. 22/03294/S73) was considered acceptable under the current Local Plan and since then there have been no substantive change in terms of impacts on the AONB/National Landscape or Ancient Woodland as a consequence of the current proposal to depart from a similar decision being taken.

- 6.43 As concluded by the Council in the previous approval, the site is still considered to be on the edge of the settlement and constitutes previously undeveloped land. As set out above, the site is in the open countryside under Policy H2. Nevertheless, the planning history of the site and the previous approvals on it remain a material consideration of significant weight in the determination of this application.

Five Year Housing Land Supply and Housing Need

- 6.44 When the previous applications were determined, the Council was able to demonstrate a five-year land supply. This is no longer the case, and the Council is currently unable to demonstrate a deliverable five-year housing land supply (HLS). Officers expect the LPA's HLS position to worsen from the 4.3 years it has most recently been able to demonstrate at various appeals that were determined following public inquiries. In the recent appeal decision relating to 28 new dwellings on Land north of Woodstock Road, Charlbury (LPA Ref. 23/02399/FUL and Appeal Ref: APP/D3125/W/24/3351969), the Inspector commented (paragraph 51) in his decision notice dated 29th May 2025 that *“the main parties agree that the Council is unable to demonstrate a sufficient five-year supply of housing land but dispute the extent of the shortfall. The Council suggest that it is in the region of 4.3 years, although they acknowledge that with application of the standard method for calculating housing need there is likely to be further deterioration in the supply. The appellant at the hearing advised that he considered the supply to be more likely in the region of 3.5 years.”*
- 6.45 As such, officers anticipate that the LPA's HLS shortfall is likely to rise when its next HLS position statement is published. The next Annual Monitoring Report, which will set out the Council's updated housing land supply position, is not due to be published until December 2026. No more recently published HLS position is therefore available. Officers consider it reasonable to proceed on the basis that the Council's position has not improved since May 2025 and is likely to have deteriorated further, having regard to the acknowledged application of the standard method for calculating housing need. For the purposes of this application, Officers accept that the Council cannot demonstrate a five-year deliverable housing land supply, and accordingly paragraph 11(d) of the NPPF is engaged under footnote 8.
- 6.46 It is established that the District Council has a general housing need which needs to be met throughout the District. However, the absence of a five-year HLS does not mean that all housing proposals should automatically be supported, paragraph 11(d) of the NPPF requires the adverse impacts to be assessed against the benefits, and certain policies (including those protecting the National Landscape and irreplaceable habitats) may provide a strong reason for refusal notwithstanding the tilted balance. The Local Plan identifies no housing allocations in Charlbury partly due to the location of the settlement within the National Landscape. This does not however, mean that there is no housing need within these areas.
- 6.47 The application provides for 57% affordable housing. Consultation with the Council's Housing Officer (HO) has identified that there is a significant demand for affordable housing within the Charlbury Area and the Charlbury Neighbourhood Plan (CNP) identifies a need for 23 affordable homes.

- 6.48 There are over 1,900 applicants registered on the Council's waiting list and of those, 101 applicants have expressed a preference of a dwelling in Charlbury and 43 of those already live in Charlbury. There are therefore over 100 applicants who are in need of affordable housing in Charlbury, eight of which need solely ground floor accommodation or access to a lift. The provision of 21 dwellings as affordable units in this location would go some way to addressing the affordable housing needs of the local community. Furthermore, the proposals would provide dwellings for those who have specialist housing needs in the forms of the bungalows proposed.
- 6.49 As such, it is clear that the decision-making process for the determination of this application is therefore to assess whether the adverse impacts of granting planning permission for the proposed development would significantly and demonstrably outweigh the benefits or whether there are specific policies in the framework that protect areas or assets of particular importance which provide a strong reason for refusing the development proposed. The outcome of the tilted balance should then be considered in the overall context of deciding whether any conflict with the development plan is outweighed by other material considerations. These issues are considered in more detail below.
- 6.50 An assessment of the development against the general principles of Policy OS2, as detailed above, is detailed further in the sections below.

Impact on Landscape/Setting of Cotswolds National Landscape

- 6.51 The site is located within the Cotswolds National Landscape along with the totality of the Charlbury and Burford Sub Area. In this regard, policy EH1 of the Local Plan, Policy NE1 of the CNP and paragraphs 189-191 of the NPPF are of key consideration. Essentially each of these policies set out the same considerations as the NPPF with great weight being given to conserving and enhancing the area's natural beauty.

Whether the Application Constitutes "Major" Development

- 6.52 When considering applications for development within National Landscapes, paragraph 190 of the NPPF advises that:
- "permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:*
- a) *the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;*
 - b) *the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and*
 - c) *any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated."*
- 6.53 Footnote 67 of the NPPF advises for the purposes of paragraph 190, "whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale, and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined".

- 6.54 There are no set rules as to what comprises “major development” within what is now termed a National Landscape (formerly an AONB), and the Courts have held that it is a matter of judgment in all of the circumstances of the case (see *R (on the Application of Hilltop Experiences) v Norfolk CC* [2025] EWHC 1447 (Admin)).
- 6.55 In the Hilltop case, Lieven J. observed reiterated earlier jurisprudence to the effect that “major development” for the purposes of NPPF guidance in respect of AONB/NL is not to be equated with the use of the term in the Town and Country Planning (Development Management Procedure) England Order 2015 (per Lieven J. at para 77, endorsing *Aston v SSCLG* [2013] EWHC 1936 at paragraph 93) comprising residential development of more than 10 dwellings or on a site having an area of more than 1 hectare.
- 6.56 At paragraph 81, Lieven J. made it clear that once a planning judgment has been formed, then it can only be challenged on the grounds of rationality (which is a high bar – see *Newsmith v SOS* [2001] EWHC 74 Admin).
- 6.57 The Cotswold National Landscape Board (formally the Cotswolds Conservation Board) (CNLB) have objected to the proposed development and are of the view that it would constitute “major development” in the context of paragraph 190 of the NPPF. Based on the definition of “major development” contained in footnote 67 of the NPPF as set out above, they assert the development merits this status by virtue of its nature, scale and setting, and its potential to have a significant adverse impact on the purpose of conserving and enhancing the natural beauty of the Cotswolds National Landscape. They consider that those ‘exceptional circumstances’ have not been demonstrated, and the proposal as submitted does not accord with the Local Plan or Cotswolds National Landscape Management Plan.
- 6.58 The case of *Porter v Secretary of State for Communities and Local Government* [2013] EWHC 2314 (Admin) (commonly referred to as *Porter No.2*) is a key legal precedent in understanding what constitutes “major development” in AONBs. In this case, the key judgement points made by Sullivan LJ. were as follows:
- 1) “Major development” is not just about scale or size. It is a planning judgment, not a purely quantitative or threshold-based one.
 - 2) Context matters. What might be a small development in an urban area can be major in a sensitive AONB context. The nature, location, and potential impact on the AONB are all relevant to deciding whether something is “major.”
 - 3) There is no fixed definition. The court rejected the idea that “major development” should be defined only by the thresholds in the Town and Country Planning (Development Management Procedure) (England) Order 2010, which defines major development more rigidly (e.g. 10+ dwellings, 1,000+ sqm floor space).
 - 4) Ultimately, it is for the decision-maker (the LPA) to decide, subject to rationality. So long as the planning authority considers all relevant factors and comes to a reasoned judgment, courts will be slow to interfere.
- 6.59 The *Porter No. 2* judgment confirms that “major development” in AONBs is a flexible, context-sensitive concept, and not automatically defined by rigid legislative thresholds. It gives LPAs

authorities discretion, but this discretion must be exercised carefully and with clear justification, especially given the high level of protection afforded to AONBs.

- 6.60 In Summary, the Porter No. 2 case established that the determination of whether a proposal is “major development” in an AONB is a matter of planning judgment — based on the proposal’s scale, impact, and sensitivity of its context — not simply on legislative thresholds.
- 6.61 It is important to note from the above case law that in relation to consistency it does not indicate that there needs to be a “good reason” to depart from a decision reached in a materially similar case. All that is required is that any departure from a materially similar case/decision is adequately reasoned. Provided there is a rational reason that is properly and adequately explained, it is entirely permissible to depart from a previous decision/finding. This is because of the common law rule against fettering of discretion and also the fact that under the TCPA 1990 all applications must be determined on their own merits.
- 6.62 In the recent May 2025 appeal decision relating to Land north of Woodstock Road, Charlbury (LPA Ref. 23/02399/FUL referenced above, the Inspector did not consider a proposal for 28 new dwellings to be “major development” He noted (paragraphs 18 to 20):

”The National Landscape designation does not preclude development and there would be beneficial impacts from the Cotswolds vernacular design, and a landscape led approach mainly in the form of the managed boundary buffer. Albeit on a small and enclosed field atypical of the wider landscape there would be a major adverse change through the development of a green field for residential development and the introduction of built form, hard surfacing, and associated infrastructure.

Given the overall size of the Cotswolds NL and the particular characteristics of the site its loss to development would not be significant in the context of the key qualities and landscape features of the Cotswolds NL as a whole. That said, paragraph 189 of the National Planning Policy Framework (the Framework) states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Landscapes which have the highest status of protection in relation to these issues. The scale and extent of development within these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

The Framework states that for the purposes of paragraph 190 it is a matter for the decision maker to determine whether a proposal constitutes major development in a NL. The appellant, Council and Cotswolds Conservation Board are of the view that the proposed development would not be major development in the Cotswolds NL. Based on the evidence before me I have no reason to conclude otherwise.”

- 6.63 The Officers report relating to the previous lapsed approval (Ref. 15/03099/FUL) for development on this site (also for a total of 37 dwellings and within a similar development envelope as now proposed) did not consider that the proposed development constituted “major development”. This was contrary to the view of CNLB who considered it to be major development. The officers report noted that: *‘it is open to the Local Planning Authority to conclude, as a matter of planning judgement that the development is not major development in the AONB [now National Landscape]. Your officers consider that it would be reasonable to conclude that a development of this scale and form, proposed in the context of a site where its impact is constrained by landform, built form and vegetation is not major...’* Whilst the minutes of the Uplands Planning Area Planning Sub-Committee in December 2017 indicate that there was some discussion on this matter there is no indication that the Sub-Committee took a different view.

- 6.64 Officers therefore recognise that on a previous occasion in respect of a similar (but by no means identical scheme) Officers previously considered it reasonable to regard a development of 37 new dwellings as not constituting “major development”. Whilst it would be open to the LPA to now form a different view that the development now proposed does comprise “major development” in the National Landscape, based on the principle of consistency of decision making (N. Wilts supra), it would be obliged to provide a rational reason, that is properly and adequately explained, as to why it had formed a different view when compared to the original now lapsed permission.
- 6.65 The proposed development is residential in nature and is considered appropriate to a setting on the edge of a Cotswolds settlement. Enclosed by surrounding boundary vegetation and woodland, the proposed development would have a limited visual envelope. The proposed development is well designed and would complement the character and form of dwellings in the locality. The simple layout is set back from Forest Road allowing for the provision of generous planting at the road frontage to the site. The layout will work with the changing levels of the site providing a staggered development which steps into the valley side ensuring that the development assimilates with the rising ground levels. The proposed dwellings are of a design and form that would be proportionate and appropriate to the scale of Charlbury forming a logical extension of the existing built form /settlement westwards. The scale and massing of the dwellings individually would be characteristic of the local vernacular including narrow gabled forms and steeply pitched roofs. With a maximum height of two-storeys proposed, the proposals would be similar in height and scale to the previously approved scheme which was considered to be “minor” rather than “major” development.
- 6.66 The setting of the site is summarised in the extract from the submitted Landscape Visual Impact Assessment set out in paragraph 6.62 below with further discussion about landscape and visual impacts then being provided below.
- 6.67 Taking into account the nature, scale, and setting of the current proposal, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined, Officers are of the clear view that this proposal does not constitute "major development" for the purposes of paragraph 190 of the NPPF. This assessment is based on the contained nature of the site, its limited visual envelope, the modest scale and design of the development, and the consistency of this conclusion with the approach taken in respect of a materially similar scheme previously considered on this site. Officers therefore disagree with the view of the CNLB.

Impact on Landscape and Setting of Cotswolds National Landscape

- 6.68 A new Landscape Visual Impact Assessment (LVIA) has been submitted as part of the current application which carries out a full landscape and visual impact assessment in line with industry guidance. The Assessment considers various viewpoints, receptors and impacts and it concludes:

“Planning consents for a similar development within the site were granted in May 2017 (quashed through Judicial Review) and again in January 2020 but not constructed. The submitted proposals are broadly comparable to approved schemes, with an access point, road structure and street layout similar to proposals approved as part of the original permission and subsequent Section 73 application. The proposed development is now set slightly further away from the edge of the ancient woodland. Some additional characteristic native tree species have been included at the edges of the site to align better with local landscape character and new wetland habitats would be created to the south-west as part of the SuDS strategy, which would complement the adjacent waterway. The proposed development continues to be broken up by small copses of native tree and scrub planting. The proposed development is therefore in line with the approved scheme but with some localised improvement.”

Situated in a local valley feature, and enclosed by surrounding boundary vegetation and woodland, the proposed development would have a limited visual envelope. There would be a minor effect on the views experienced by walkers along public rights of way in the National Landscape at construction which would have reduced to Negligible following the establishment of the new tree planting (10 years post completion). Motorists near the site would have more open, closer range views of the development, but these would be fleeting, seen in context with existing urban influences and by receptors recognised as having a reduced sensitivity. There are likely to be glimpses of the proposed development from upper storey windows of occasional properties within the conservation area, on the opposite side of the valley, however these would be seen in context with the existing built up area and Forest Road Works. The landscape structure would take time to establish, but proposed trees would reach a similar height to the eaves of proposed houses after 10 years and would increasingly soften built form’.

In summary, the proposed development has regard for landscape related policy, and over time would have a beneficial effect on landscape features (particularly boundary trees), a minor adverse effect on landscape character within the site, but Negligible effects on the character of the wider National Landscape. Residual visual effects are predicted to be and minor adverse (at worst) to Negligible effect on views. The proposed development would be difficult to perceive or would fit in with existing baseline views, from the vast majority of publicly accessible viewpoints within the study area of the assessment.”

Landscape Effects

- 6.69 In considering the landscape effects of the proposals, the LVIA notes that during the time of construction, the pastoral grassland which forms the main body of the site would be lost, however this feature is not rare and could be recreated over time. The LVIA judges that the magnitude of change on the grassland would be medium adverse at the time of construction, and the effect Moderate adverse. The vast majority of boundary features would be protected and retained during construction, the magnitude of change on boundary features would be Very Low adverse at the time of construction and the effect Minor adverse.
- 6.70 The site has a slightly reduced susceptibility to development given detracting influences described in the baseline, and the magnitude of change at the time of construction is judged to be Medium adverse. However, given the High sensitivity of the landscape character of the site within the National Landscape, the proposed development is predicted to have a Substantial adverse effect on the landscape character of the site at the time of construction.
- 6.71 The wider local landscape character also has high sensitivity, although the magnitude of change at the time of construction is judged to be Low adverse giving a Minor adverse effect at the time of construction.
- 6.72 At completion, the character of the built form would be set, representing a new housing development, positively designed and reflecting local vernacular. The proposed planting scheme would be implemented and would include new native and street trees, native tree copses and scrub and new grassland and wetland features. The overall quantity of internal features would increase and would be a benefit to the character of the site. Following the completion of the proposals, it is anticipated that the effects assessed at construction would begin to reduce.
- 6.73 As the landscape strategy is established, the positive effects of the proposals would become more apparent. The site would have changed from a characteristic field in pasture, to a characteristic development, which fits well within a retained and improved landscape structure. Extensive planting

would more than compensate for the small loss of existing vegetation at the time of construction and would enhance the landscape structure of the site and tree cover within the National Landscape. There would be offsets from existing treed boundaries with complementary planting and improved maintenance. After 10 years the LVIA judges that the development would have a Minor beneficial effect on the internal site features and a Moderate beneficial effect on site boundaries. In context with its surrounding influences, the LVIA judges that the effect of the proposed development would reduce to Minor adverse after 10 years. Officers have reviewed the LVIA's findings and adopt them as their own professional assessment.

- 6.74 The effects of the proposals on the overall character of the site would reduce to Minor adverse within 10 years of completion. The additional boundary planting would further assimilate the proposed development into the surroundings as demonstrated by the submitted photomontages. The development would be seen in the context of Forest Road works in close range from the edge of town to the north and east of the site and would not affect the character of the rural landscape to the west and south. The new planting adjacent to the ancient woodland would be complementary. The residual effects on the surrounding National Landscape are judged to be Negligible.

Visual Effects

- 6.75 In considering the visual effects of the proposals, as with the existing site, the proposed development would have a relatively limited visual envelope due to the surrounding vegetation, topography, and buildings, with close range views from nearby vantage points, and glimpses from occasional locations within the wider landscape. The proposed development would result in a slight increase (almost imperceptible in many cases) in the amount of built form visible from the receptors which have views of the site. The proposed buildings would be in keeping with the local vernacular and would be partially obscured or filtered by intervening vegetation and/or seen in context with existing urban influences.
- 6.76 At the time of construction, the proposed development would not be visible from the majority of public rights of way in the area. However, activity to construct the proposed buildings would likely be glimpsed in the distance from public footpaths 156/6/20, 156/3/10, and 156/7/20 on the elevated ground north of the site. Whilst this would be an adverse effect on walkers within the National Landscape, the majority of construction activity would be obscured by intervening vegetation from these vantage points and as such the magnitude of change is considered to be Low adverse, and the effect Minor adverse at the time of construction.
- 6.77 Construction activity would be obscured in views from the majority of roads in the areas. However, activity to construct the proposals would be visible to motorists along roads near the site, including Forest Road and Dyer Hill, to varying degrees depending on proximity to the site. There would be open views of construction activity from Forest Road as it passes adjacent to the site on the approach into Charlbury and leaving the village. Although seen fleetingly and in association with the existing settlement and Forest Road Works, the magnitude of change on the views of motorist along this route is considered to be High adverse at the time of construction, although given the low sensitivity of the motorists, the effect would be Moderate adverse.
- 6.78 Construction would be seen in the distance by motorists along a section of Grammar School Hill. There are expansive views across the rural, largely undeveloped landscape of the National Landscape from this section of road. However, construction activity would be distant, glimpsed through gaps in intervening and surrounding tree cover and form a small part of the wider view. Seen fleetingly,

construction activity is judged to have a Medium adverse magnitude of change on the views of motorists along Grammar School Hill, and a Moderate adverse effect at the time of construction.

- 6.79 Construction activity is likely to be identifiable by users of Charlbury railway station as they walk across the station overbridge between platforms, and fleeting by train passengers, however given the receptors low sensitivity and the limited magnitude of change, the effect on railway passengers at the time of construction is judged to be Negligible.
- 6.80 Once completed, views of the development from public footpaths 156/6/20, 156/3/10 and 156/7/20 are likely to be limited to glimpses of rooftops within the site. After 10 years, distant glimpses of rooftops would be assimilated into the wider view by a combination of existing landscape structure and establishing tree planting which would have reached a similar height to the eaves of the proposed houses. This would be similar to the baseline views, where slate rooftops can be seen within the wooded landscape of the wider panorama. It is considered that after 10 years, the proposed development would have a Negligible effect on the views experienced by walkers along public footpaths.
- 6.81 Once constructed, proposed houses would be clearly visible by motorists travelling along Forest Road (see wireframe photomontage 9B) and to a lesser extent from Dyer Hill. Over time proposed planting would begin to soften and obscure built form, with proposed trees reaching a similar height to the eaves of proposed buildings after 10 years, but proposed houses are likely to remain noticeable to motorist along the route approaching and passing the site. Seen fleeting and set within a treed context but in association with existing urban influences including the Forest Road Works and the edge of Charlbury, the magnitude of change on the views experienced by motorists along Forest Road is judged to be Medium adverse after 10 years, and the effect Minor adverse after 10 years. At greater distance, the magnitude of change on the views experienced by motorists along Dyer's Hill is judged to be Low adverse, resulting in a Negligible effect after 10 years.
- 6.82 When travelling north along Grammar School Hill, the proposed development would initially be obscured from motorists views by intervening vegetation. However, proposed houses would become identifiable in motorists views further north as the edge of Charlbury also comes into view. Views of the proposed development would primarily consist of a distant cluster of rooftops nestled within surrounding tree cover and would not break the skyline. Although initially appearing separate from the main extent of Charlbury, the development would be seen in context with the built up area of Charlbury closer in the view and would form a relatively limited part of the wider view experienced by motorists travelling north towards Charlbury. After 10 years, proposed trees would be establishing and beginning to soften built form, and it is judged that the magnitude of change would be Low adverse and the effect Minor adverse on motorists along Grammar School Hill after 10 years. The effect on railway passengers is judged to be Negligible 10 years after completion.
- 6.83 The magnitude of change and effect on views from private dwellings including listed buildings, are not assessed individually, however it is recognised that the development has the potential to effect the setting to the Conservation Area as a whole. There would be no view of the proposed development, or it would be difficult to perceive, due to intervening vegetation and buildings, from the majority of the Conservation Area. Where there are views of the development from the Conservation Area, views of proposed houses would primarily be distant and/or seen in context with existing urban influences such as Forest Road Works or other buildings within or adjacent to the Conservation Area. The development is located on slopes facing the Conservation Area, however, is set adjacent to an existing cluster of development associated with the railway and contained by existing landscape

structure, and as such would likely have a relatively limited adverse effect on the wider setting to the Conservation Area.

Justification if members conclude the development is “major development”

- 6.84 The following paragraphs address the position only if the Committee, contrary to Officers’ clear recommendation, were to conclude that the development constitutes major development for the purposes of paragraph 190 of the NPPF. Officers do not consider this analysis necessary for the purposes of their recommendation.
- 6.85 Officers are of the clear view, for the reasons set out above, that this proposal does not constitute 'major development' for the purposes of paragraph 190 of the NPPF, having regard to the contained nature of the site, its limited visual envelope, the modest scale and design of the proposed development, and the consistency of this conclusion with the approach taken in respect of a materially similar scheme previously considered on this site. Officers therefore disagree with the view of the Cotswolds National Landscape Board on this point.
- 6.86 Notwithstanding that clear view, should the Committee reach a different conclusion and prefer the position of the CNLB, Officers are satisfied for the reasons set out below that exceptional circumstances exist and that the development is in the public interest for the purposes of paragraph 190 of the NPPF. The exceptional circumstances and public interest factors identified below are also weighed in the overall planning balance at Section 7 of this report
- 6.87 The provision of “major” residential development in the National Landscape can still be considered acceptable where ‘exceptional circumstances’ are demonstrated and where it can be demonstrated that the development is in the public interest. Paragraph 190 of the NPPF sets out a series of criteria which should be considered in the context of major development in the AONB. Officers have considered the criteria set out in paragraph 190 of the NPPF and are satisfied, for the reasons set out below, that exceptional circumstances exist and that the development is in the public interest.
- 6.88 The provision of homes in the local economy will support local employers by retaining a local population for jobs. The retention of generally younger households in the local area will also support the vitality of the community maintaining a range of services and facilities which may not be maintained with an aging population. It remains the case that the provision of this development would have positive impacts in relation to the national drive for the provision of housing, the local need for development and the local economy. The exceptional circumstances and public interest factors identified above are also weighed in the overall planning balance at Section 7 of this report.
- 6.89 Given that the majority of this sub-area is within the National Landscape the opportunities for providing housing and affordable housing to meet the needs of households in Charlbury is non-existent. To gain affordable housing in the context of no allocated sites windfall development would need to be relied upon. The Council’s waiting list identifies 100 households wishing to access affordable housing in Charlbury which, would not be met through the rate of windfall sites which have come forward in the sub-area or specifically Charlbury. Simply, meeting the need of households in need in Charlbury, by providing them with a home in the area in which they have local connections, is not possible without the allowance of development within the AONB.
- 6.90 Of consideration in this context is the Called in Appeal Decision relating to Appeal APP/M2270/V/21/3273015 within which the Secretary of State agreed with the Planning Inspector conclusions who outlined that ‘*When assessing whether there are exceptional circumstances in the context*

of para 177, the relevant legal authorities indicate that, while it is not a conventional balancing exercise, all of the benefits of the development in question can be taken into account, each benefit does not have to be exceptional alone and nor do they have to be unlikely to occur in a similar fashion elsewhere’ (Paragraph 800). Further, stating that: ‘I would stress that this conclusion is not just a consequence of unmet housing need. Rather it is a unique combination of factors including market and affordable housing need, there being no adopted strategy to fully address current and on-going housing need, uncertainty over when, if and in what form the eLP might be adopted, the constrained nature of the Borough and the apparent lack of available alternative sites, and the limited extent and degree of harm that would arise from the proposed development. It is these matters, combined with the other identified benefits that would be delivered, that come together to form the exceptional circumstances required to justify this proposed development in the terms of para 177 of the Framework’ (Paragraph 813).

- 6.91 It is considered that the proposed development, with the amended form and the proposed landscaping scheme ensures that the impact is moderated to such an extent that the development would not have any significant impact upon the wider National Landscape. The scheme proposed as part of this application, proposes the same number of dwellings, albeit in a different arrangement and a lower form of development to the previously approved scheme. The design, form, scale, and massing of the dwellings is more appropriate to a setting on the edge of a Cotswolds settlement, and the height of the development has been reduced. A number of benefits in the public interest will arise from the scheme, not least the provision of a number of forms of housing, including affordable housing provided in excess of the policy requirement. On this basis, the site remains contained and the same conclusions can be drawn in relation to the landscape impact and the benefits arising from allowing the development, are considered sufficient to constitute ‘exceptional circumstances.’
- 6.92 Should the Committee consider that the proposals are “major” development and the ‘exceptional circumstances’ test applies, then at the end of the report (in the Conclusion and Planning Balance section) Officers have set out the factors that represent in their view ‘exceptional circumstances,’ and the public interest.

S. 85 Countryside and Rights of Way Act 2000

- 6.93 The Levelling Up and Regeneration Act 2023 (LURA), which came into force on 26 December 2023, strengthened the duty on relevant authorities exercising functions in relation to land within a National Landscape. Section 85(A1) of the Countryside and Rights of Way Act 2000 (as amended by the LURA) now imposes a duty to seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty. It should be noted that this duty — as it applies to National Landscapes — is limited to the conservation and enhancement of natural beauty. The additional purpose of promoting opportunities for the understanding and enjoyment of the special qualities of the area by the public applies to National Parks but does not form part of the statutory duty for National Landscapes.
- 6.94 What this requires was set out by the High Court in two cases: *New Forest National Park Authority v Secretary of State for Housing Communities and Local Government* [2025] EWHC 726 (Admin) and *R (CPRE Kent) v Secretary of State for Housing Communities and Local Government* [2025] EWHC 1781 (Admin). Very broadly, the first question is whether the application would “conserve and enhance” the natural beauty of the AONB. “Conserve” means doing no harm. If it would conserve and enhance the natural beauty of the AONB then the duty is discharged. If it would not (i.e. it would do some harm) then the second question is to consider whether, and if so why, the grant of planning permission is nevertheless justified, which might involve considering things such mitigation and compensatory provisions.

- 6.95 The Government has published Guidance relating to this requirement in December 2024. That notes that regard should be had to the Management Plan of the protected landscape in the consideration of development proposals.
- 6.96 In this regard, the Cotswold National Landscape Management Plan 2025-2030 is the key document. The special qualities of the Cotswold National Landscape (CNL) are noted as the '*rich mosaic of historical, social, economic, cultural, geological, geomorphological, and ecological features.*' These are noted as including; large, open, and predominantly farmed landscape, ancient broadleaved woodlands, tranquillity from major sources on inappropriate noise, extensive dark skies, distinctive settlements developed in a Cotswold vernacular and an accessible landscape for quiet recreation for both urban and rural users.
- 6.97 The proposed development is located on a contained area of land which has no significant prominence on the wider area and does not erode the large, open landscape. The proposed development has also been designed to minimise light spillage in the area of dark skies. The landscaping proposals include areas of large broadleaved woodland planting, contributing to one of the distinctive elements of the landscape, and grassland areas which will provide further distinctive habitats. The vernacular design of the dwellings reinforces the traditional building traditions of the Cotswolds area.
- 6.98 Officers acknowledge that the scheme will result in some harm to the natural beauty of the National Landscape, as concluded above. The duty therefore requires the Council to consider whether, notwithstanding that harm, the grant of planning permission is justified. Officers have weighed the limited harm identified to the natural beauty of the National Landscape against the significant public benefits of the scheme, in particular the delivery of affordable housing, including specialist assisted living accommodation, to meet an identified local need in Charlbury which cannot readily be met elsewhere. It is considered that those benefits justify the grant of permission notwithstanding the limited harm identified to the natural beauty of the National Landscape, and that the Council has thereby discharged its duty under section 85 of the Countryside and Rights of Way Act 2000.
- 6.99 In conclusion, the proposed development would encroach into the rural landscape and would result in the loss of what is currently an open undeveloped area. Its replacement with housing, streets, potential lights and associated human activity would clearly have an adverse effect on the rural appearance and character of the landscape, although, it is recognised that in the longer term, its impact could be mitigated through appropriate landscaping to reduce its visual impact. This harm must nonetheless be put in the planning balance with the great weight required by paragraph 189 of the NPPF.
- 6.100 Policy EH1 of the Local Plan also requires regard to the Cotswolds National Landscape Management Plan 2025-2030 as a material consideration. Officers have considered the relevant policies, including policy CE4, which relates to local distinctiveness. The proposed development has been designed in a neo-vernacular style using a traditional palette of materials characteristic of Cotswolds settlements, with narrow gabled forms and steeply pitched roofs. Officers are satisfied the proposals respect and reinforce local distinctiveness in accordance with CE4. Policy EH1 paragraph 4 also identifies that the delivery of affordable housing and schemes meeting social wellbeing objectives are relevant considerations; this is addressed further in the Affordable Housing section and the Planning Balance at Section 7 below.

6.101 If the Committee were to conclude the application was major development, the exceptional circumstances tests set by paragraph 190 of the NPPF and EHI of the Local Plan would be met, for the reasons set out more fully in the planning balance section.

Affordable Housing/Housing Mix

- 6.102 Policy H3 of the Local Plan sets out the Council's requirements in relation to affordable housing. It identifies that, in Charlbury which is within the medium value zone, the affordable housing requirement is 40%. Similarly, Policy CH2 of the Charlbury NP supports the provision of affordable housing with particular support for proposals which address the specific affordable housing needs identified in the NP. The NP identifies that additional provision specifically intended for the elderly may also be appropriate. Policy CN3 also supports the provision of lower-cost housing.
- 6.103 The application proposes 37 dwellings which would equate to an affordable housing provision of 14.8 units. The current application proposes 21 affordable dwellings on site equating to a 57% provision of affordable housing surpassing the requirements of the Local Plan.
- 6.104 As part of this provision consultation has been undertaken with the Council and OCC in relation to the forms of housing required in lieu of the former dementia care proposal. At the time of the previous application (Ref. 15/03099/FUL), dementia care was thought to be best provided within the care home environment however, this position has changed. Consultation revealed that the local care need is for individual bungalows which allow for care to be delivered in the home. The bungalows provide a flexible use for people with varying needs. The previous application proposed a 12 bed care facility, and this application replaces that with seven assisted living bungalows which will be secured by s106 to be retained in perpetuity to meet the care needs of the area.
- 6.105 The previous application (Ref. 15/03099/FUL) proposed 7 of the dwellings to be provided as affordable rented units with a further 6 proposed as discount market housing. Since that application was made the Government introduced the provision of 25% of affordable dwellings as first homes, however, this requirement has been removed in the latest version of the NPPF following the Labour Government coming to power.
- 6.106 Following this change discussion has been undertaken with the HO to determine which forms of affordable housing they would require at the site. They have confirmed that the preference for the affordable homes provided as part of the application would be for Social Rent as that is where the greatest demand will be. On this basis the application proposes the provision of 21 affordable units (15 social rented; and 6 affordable discount market housing) which equates to 57% affordable housing exceeding the requirements of the Local Plan in terms of affordable housing. The provision of the discount market housing also provides lower cost housing which accords with policy CH3 of the CNP. The affordable houses are located on the eastern part of the site.
- 6.107 In addition to the above, the proposed development provides specific need housing in the form of bungalows. The bungalows are provided instead of the dementia specific care home previously approved. Policy H4 of the Local Plan notes that development proposals should meet the needs of a range of different groups identifying older people and those with disabilities in particular. The assisted living bungalows provided as part of this application can cater for the needs of a greater range of people in need of specialist accommodation. The policy notes that the provision of specialist housing for those with disabilities will be supported in accessible sustainable locations. The proposed development lies approximately 700 metres from the town centre of Charlbury and approximately 350 metres from the Railway Station which provides onward access to Oxford, London, and

Worcester. Furthermore, the provision of bungalows rather than a specific care home means that the accommodation is flexible and can be used to cater for a number of groups rather than solely for specific dementia care.

- 6.108 Policy H4 of the Local Plan seeks to provide a good, balanced mix of property types and sizes. Policy CH6 of the CNP advises *'All new development (except affordable rented housing) should provide the following mix of dwelling sizes: at least 40% 1-2 bedrooms; approximately 40% 3 bedroom homes and no more than 20% 4+ bedroom homes; 5+ bedroom homes will only be supported where a specific local need can be demonstrated'* and policy CN7 which deals with affordable rented housing supports development proposals for affordable rented dwellings which include the provision of dwellings which have been designed to cater for the specific needs of the aging population of the town and/or people with disabilities where this approach is evidenced by the most up-to-date information available. Policy CN10 of the CNP supports in principle development that meets the particular needs of older people and those with disabilities currently living within the parish or with local connection to the parish.
- 6.109 The submitted PS sets out that a mix of sizes from 1-bedroom to 4 -bedroom dwellings are proposed. The specialist accommodation is provided as seven one bedroom bungalows. This mix together with the affordable housing mix on the site would provide an appropriate mix of smaller and larger size dwellings.
- 6.110 The proposed development overprovides for affordable housing allowing access to a wide range of affordable products meeting the needs of a range of people. The scheme also provides for a specific form of housing to meet the needs of older persons and those people with disabilities who need access to specific care requirements. The affordable housing will be retained in perpetuity via a s106 with an appropriate mechanism for nominations for both the specialist and general affordable housing and offered to Charlbury local residents first through the use of a cascade mechanism . The scheme also provides for 12 custom build properties (32% of the total), and these will also be secured in the same way through a s106. at the site. The proposal is therefore considered to comply with policies H2, H4 and H5 of the Local Plan and the housing policies of the CNP.

Layout, design, and scale

- 6.111 Paragraph 135 of the NPPF is clear that development proposals should function well and add to the overall quality of the area; are visually attractive as a result of good architecture, layout, and appropriate and effective landscaping; are sympathetic to local character and history and create places that are safe, inclusive, and accessible and have a high standard of amenity for existing and future users. Policies OS2 and OS4 of the Local Plan and policy HE2 of the CNP reflect this advice and encourages development of a high quality design that responds positively to and respects the character of the site and its surroundings. The importance of achieving high quality design is reinforced in the National Design Guide and the CNP contains Design Guidance (Appendix C).
- 6.112 The Council's Design and Conservation Officer notes that of the 37 dwellings proposed, most flank a road running along the mid-height contour, although with a spur running to the higher ground to the south-west -and pretty much following the constraints imposed by the shape of the site. There are garages to the market houses, with parking spaces generally set beside and between the other properties. The general layout is roughly similar to that approved under 15/03099/FUL with dwellings also now located on the most prominent highest ground as per the previous permission.

- 6.113 There is a range of house designs, which are now considered to be acceptable in design and appearance. The layout of the revised scheme is broadly similar, but the primary road is now curved, with radial positioning of the buildings. This gives a more natural fit for the contours and could create a little more interest. The houses now have simpler massing and simpler elevational treatments - and they are now more securely rooted in the typical neo-vernacular.
- 6.114 The submitted PS advises that the layout of the site stems from the main spine road running north to south off of Forest Road. The orientation and layout of buildings have been designed to create active street frontages with gardens either; backing onto each other or facing green infrastructure or site boundaries. A five metre buffer is provided to the ancient woodland to the west of the site, and the built form of development is a minimum of 15 metres away from the boundary with the woodland.
- 6.115 In terms of the location, this site comprises undeveloped land outside the built-up area of Charlbury, assessed as open countryside under Policy H2. As set out in the planning policy assessment above, the site adjoins the enclave of development at Charlbury Railway Station but having regard to Policy CHI of the CNP at paragraph 5.3.4, that enclave is not regarded as part of the built-up area for planning purposes. The relevant test under Policy H2 for new dwellings in open countryside, that there is a specific local need that cannot be met in any other way, is considered to be met for the reasons set out in the planning policy section of this report. The proposed development would form a logical complement to the existing pattern of development and the character of the area in accordance with Policy OS2
- 6.116 The proposed development has been designed to respect the character and appearance of the wider area. The simple layout is set back from Forest Road allowing the provision of generous planting at the road frontage to the site. The layout will work with the changing levels of the site providing a staggered development which steps into the valley side ensuring that the development assimilates with the rising ground levels.
- 6.117 The scale and massing of the dwellings individually are characteristic of the local vernacular including narrow gabled forms and steeply pitched roofs. The height of the dwellings have been minimised through ensuring the eaves sit close to the lintols for the upper floor windows and the scheme includes exposed eaves which are all traditional features of the local vernacular.
- 6.118 A variety of house types will be utilised to reflect the varied character of street scenes within Charlbury. Varied roof forms are proposed but with generally flat fronted forms and simple elevations. Guidance from the Council's Design Guide has been utilised to inform the character of the dwellings.
- 6.119 A traditional palette of materials will be utilised to assimilate the development with the local context. The proposed development is considered to pay regard to the Council's Design Guide and will provide a high quality development.
- 6.120 The Thames Valley Police - Designing Out Crime Officer has raised no objection to the proposal subject to conditions relating to Secured by Design accreditation, defensible space and planting and lighting as suggested being attached to any permission granted.
- 6.121 Given the above, it is considered that the proposed development is appropriate to the character and appearance of the area, would provide high quality design and would complement the character and form of dwellings in the locality. The scheme is considered to be in accordance with policies OS2 and OS4 of the Local Plan and policy HE2 of the CNP.

Impact on Heritage Assets

- 6.122 The site lies to the west of the Charlbury Conservation Area (CA), and the nearest listed building is the main station building which is Grade II listed. The Planning (Listed Buildings & Conservation Areas) Act 1990 Section 66(1) requires special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses while section 72(1) requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. Relevant Policies of the Local Plan and Charlbury NP reflect these duties.
- 6.123 Section 16 of the NPPF sets out guidance on conserving and enhancing the historic environment. Paragraph 212 advises that great weight should be given to the conservation of designated heritage assets irrespective of whether any potential harm amounts to substantial harm or less than substantial harm. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, paragraph 215 requires this harm to be weighed against the public benefits of the proposal, including where appropriate securing its optimum viable use.
- 6.124 Officers consider that, in this case, the limited incursion of the development into the setting of these assets gives rise to less than substantial harm at the lower end of that scale. The development is set away from the Grade II listed station building and the Charlbury Conservation Area, is partially screened by intervening vegetation, and is designed in a manner sympathetic to the local vernacular. In line with paragraph 215 of the NPPF, Officers are satisfied that the public benefits of the scheme, including the provision of affordable housing, specialist housing to support older or disabled people, and the contribution to meeting the District's identified housing need, are significant and outweigh this very limited level of harm.
- 6.125 Charlbury Conservation Area Advisory Committee object strongly to the proposed development on the grounds of its negative impact on the setting of the Charlbury Conservation Area (CA) and consider that the public benefit of the proposed development did not outweigh the detriment to the landscape in this case and that a similar benefit in terms of affordable housing could be achieved in another, less sensitive, location.
- 6.126 The Conservation and Design Officer (CDO) has commented that the Evenlode valley is a crucial feature of the CA, both in terms of its strong riparian character, and also in the way it has largely contained the built development of the settlement to its eastern side. He notes that the current site sits on the western side of the valley, on rising ground. The CDO considers that the proposed development will result in an impact upon the CA, carrying the built form well beyond the historic pattern of development, and also impacting the special quality of the river valley. It is Officer's opinion that the impact on the setting of the CA would amount to 'less than substantial' harm to the heritage assets identified.
- 6.127 The proposed development is therefore considered to comply with Policy EH9 of the Local Plan and the heritage policies of the Charlbury Neighbourhood Plan.
- 6.128 In terms of archaeology, the County Archaeological Officer has raised no objection to the proposal commenting that an archaeological field evaluation was carried out on the site as part of a previous application (Ref: 15/03099/FUL). This was undertaken in line with an approved written scheme of investigation by Cotswold Archaeology. The evaluation did not identify any significant archaeological features. A linear feature or ditch contained some fragments of pottery that are dated from the eleventh to the thirteenth centuries AD. The application area appears to have lain outside any

settlement within an area agricultural cultivation. No further archaeological investigation is required and there are no further archaeological constraints to the development of this site.

Highway Impact and Pedestrian Accessibility

- 6.129 The key transport policies are Policies T1 and T3 of the Local Plan and the relevant transport policies of the Charlbury Neighbourhood Plan. The following paragraphs set out Officers' assessment of the development against those policies, with the compliance conclusion at paragraph 6.141.
- 6.130 Policy T1 of the Local Plan states that priority will be given to locating new development in areas with convenient access to a good range of services and facilities and where the need to travel by private car can be minimised, due to opportunities for walking, cycling and the use of public transport. And that, all new development will be designed to maximise opportunities for walking, cycling and the use of public transport. Similarly, Policy T3 states that all new development will be located and designed to maximise opportunities for walking, cycling and the use of public transport and that where opportunities for walking, cycling, and using public transport are more limited, other measures will be sought to help reduce car use as appropriate. The NP also reflects these objectives.
- 6.131 The application proposes a total of 37 dwellings which is the same number of units as the previously approved scheme which was considered acceptable in relation to highways. Notwithstanding this, the mix of properties is different with individual assisted living bungalows being provided instead of a care home and on this basis an updated Transport Assessment (TA) was prepared (dated September 2023) and submitted with the application.
- 6.132 The application plans show that all two storey properties are served by a minimum of two parking spaces and single storey properties are served by one parking space. Since approval of the previous application the County Council has adopted new parking standards. These require the provision of up to one parking space per one-bedroom dwelling, up to two spaces for two, three and four bedroom dwellings and up to three spaces for properties with more than five bedrooms. The proposed development accords with these standards.
- 6.133 The TA outlines the impact of the development upon the local highway network. The TA notes that there are no outstanding highway safety issues on the surrounding network and improvements are proposed as part of the application to enable a safe environment. It also outlines that the anticipated trip generation from the site would not have a detrimental impact on the operation or safety of the local highway network.
- 6.134 The site is to be accessed via a new priority access T-junction, with the proposals also including the extension of the 30mph speed limit along Forest Road to the west of the site access, and the introduction of both dragon's teeth road markings and a 30mph speed roundel. This is a similar arrangement which was proposed for the previous application at the site (Ref. 15/03099/FUL). At the request of OCC Highways, the access to the site has been widened to ensure that the large refuse vehicles used are able to enter and leave the site without unacceptable impact upon Forest Road. OCC Highways have confirmed that they consider these access arrangements to be appropriate for the residential development, with the minimum required visibility splays being achieved.
- 6.135 In addition, minor changes have been made to the internal road layout and turning heads to ensure that refuse vehicles and fire tenders can move through the site and turn without harm to the safety of other road users, also at the request of OCC Highways. With these changes the TA concludes

that there are no highways reasons why the development should not be permitted. A Road Safety Audit has been completed and the comments addressed as part of this submission.

- 6.136 Officers note that representations have raised concern about the adequacy of the pedestrian route over the railway bridge, which for approximately 30 metres does not achieve the full footway width standard referenced in the Department for Transport's Guidance on Inclusive Mobility. This matter was the subject of the PSED exercise carried out by the Council following the quashing of the original permission, as described in paragraphs 1.4 to 1.9 of this report.
- 6.137 OCC, as highway authority, was specifically requested to consider the adequacy of the pedestrian and cycle access arrangements having regard to the DfT Guidance on Inclusive Mobility and the accessibility implications for people with mobility impairments. OCC has confirmed that no mitigation is required in respect of the railway footbridge or chicane arrangements, and that the development is considered acceptable in highways terms without reliance on any such improvements. OCC further confirmed that in providing its response it had explicit regard to the needs of people with protected characteristics, including those with mobility impairments.
- 6.138 Both the Council and OCC have independently had regard to the requirements of Section 149 of the Equality Act 2010 in carrying out their respective assessments. The Council is satisfied, having regard to OCC's response and its own PSED assessment, that the accessibility arrangements proposed are acceptable and that the development meets the NPPF requirement for safe and suitable access for all users, including those with mobility impairments. Members are referred to paragraphs 1.4 to 1.9 of this report for further detail.
- 6.139 Officers specifically address the point that the footway over the railway bridge will not be widened for a stretch of approximately 30 metres. OCC has confirmed, having considered the DfT Inclusive Mobility guidance, that this does not render the development unacceptable in highways terms. OCC has not required any signalised shuttle working or other management arrangements as a condition of their highway response. The Council is satisfied that, whilst the bridge section does not achieve the full guidance width, the overall pedestrian route remains safe and suitable for all users including those with mobility impairments, having regard to the low volume of traffic using this route and the other improvements to the footpath network secured by Condition 5.
- 6.140 In considering the previous scheme for residential development on this site it was recognised that the site lies in close proximity to one of the more sustainable settlements in the district. It adjoins one of the few railway stations and there is ready pedestrian access to the village centre with its range of facilities and amenities. There is already an enclave of development adjoining the railway station and in terms of actual distance the main body of the village is much closer to this site than sites which physically adjoin the settlement on other sides of the village. In that regard the Evenlode has curtailed the "natural" expansion of the village on this side that would have occurred over the years were it not for the floodplain constraints. In a practical sense it is however considered to be sustainably located.
- 6.141 Given the sustainable location with access to facilities and services and the availability and frequency of public transport services within the area and having regard to the conclusions of the TA, it is considered that the proposed development would be in accordance with policies T1 and T3 of the Local Plan. Members are also referred to the Public Sector Equality Duty assessment set out at paragraphs 1.4 to 1.9 of this report, which specifically addresses accessibility for those with protected characteristics, including mobility impairments, in the context of the pedestrian route to Charlbury station. On this basis, Officers consider the proposed development to be in compliance with Policies

T1 and T3 of the Local Plan and the relevant transport policies of the Charlbury Neighbourhood Plan.

- 6.142 The application also proposes an electric vehicle charging point to be made available for all dwellings with a private drive and as such, the proposal also accords with policy ECT12 of the CNP.

Residential Amenity/Noise/Air Quality

- 6.143 Section 12 of the NPPF seeks to achieve well-designed places and paragraph 135 sets out, inter alia, that places should promote health and well-being, providing a high standard of amenity for existing and future users. This advice is reflected in Policies OS2 and OS4 of the Local Plan which seek to ensure that new development does not have a harmful impact on the amenity of existing occupants.
- 6.144 In terms of layout and impact on neighbouring residents, given the orientation, separation distances and existing landscaping, there will not be an adverse impact on the amenity of neighbouring residents in respect of overlooking, loss of daylight/sunlight and overbearing issues. Similarly, the proposed relationship between the new dwellings is considered to be acceptable.
- 6.145 With regard to contaminated land and potential risk to human health, the Council's Environmental Health Contamination Officer has raised no objection to the proposal and recommends that a desk study and if required, a remediation scheme be secured by condition in any permission granted.
- 6.146 In terms of noise, the amended application is accompanied by an Acoustic Assessment report following concerns originally raised by the Council's Environmental Health Noise Officer. The report outlines that the external layout follows good acoustic design and does not require any special measures in terms of noise attenuation. It also identifies that for a small number of plots enhanced glazing and acoustically attenuated trickle ventilators will be required. The report concludes that with the mitigation measures outlined the site is considered suitable for residential development from an acoustic perspective. The Council's Environmental Health Noise Officer concurs with these findings and has raised no objection to the revised proposal.
- 6.147 With regards to air quality, the ERS Environmental Protection Officer has no objection in principle and welcomes the inclusion of photovoltaics, cycle storage and electric vehicle charging (including e-bikes and scooters) in each property and proposals to improve the pedestrian footpath from the site to Charlbury itself. It is noted however, that there is little in the proposal to encourage cycling into the town and encourages the provision of facilities such as cycle storage where possible.
- 6.148 Subject to the conditions recommended, Officers are satisfied that the proposed development complies with Policies OS2 and OS4 of the Local Plan and Policy EH8 in relation to residential amenity, noise, and air quality.

Flood Risk/Drainage/Water Supply

- 6.149 The site is located within Flood Zone 1 for fluvial flooding meaning it is at the lowest risk of flooding, furthermore the site is not in a risk area for surface water or reservoir flooding. Drainage for the approved scheme was approved by OCC as Lead Local Flood Authority (LLFA) as part of a discharge of conditions application associated with the previously approved scheme. The drainage scheme is based around Sustainable Drainage principles and includes the provision of a surface water drainage attenuation pond which will have a controlled release into the adjacent watercourse.

- 6.150 Policy EH7 of the Local Plan relates to water and flood risk. It highlights that all developments should use sustainable drainage systems to manage run-off and support improvement in water quality. It also requires a site specific flood risk assessment for all development with a site area over 1 hectare. Similarly, Policy NE8 of the CNP notes that development should utilise sustainable drainage systems to reduce run off rates from new development and should not result in increased surface water run-off elsewhere.
- 6.151 A flood risk assessment (FRA) and a drainage strategy for the site have been submitted in support of the application. The FRA demonstrates the site is not subject to flooding and confirms that the proposed drainage strategy would enable the surface water discharge from the site to be no more than that of the greenfield discharge rate. This will be managed through the provision of a water attenuation pond which will have added benefits in terms of water quality and for the water release from the pond to be controlled through a hydro brake into the adjacent watercourse. Ground investigation has demonstrated that infiltration direct to the ground is not suitable on this site due to the impervious nature of the ground conditions. The proposed drainage strategy follows the hierarchy and utilises the most suitable strategy for the site.
- 6.152 The foul discharge from the proposed development will be fed to the nearby pumping station for connection to the mains sewer. Thames Water has advised that they would not have any objection to the planning application, based on the information provided.
- 6.153 The Lead Local Flood Authority has raised no objection to the application subject to surface water drainage conditions.
- 6.154 As such, the proposed development complies with national and local planning policy with respect to flood risk and drainage and the risk of flooding is adequately managed, and the offsite flood risk is not increased.

Ancient Woodland/Trees/Biodiversity

Ancient Woodland

- 6.155 The site is located adjacent to an area of Ancient Woodland. Policy EH3 of the Local Plan identifies that proposals should minimise the impact on biodiversity and should avoid the loss, deterioration or harm to sites supporting irreplaceable habitats except in exceptional circumstances where the importance of the development significantly and demonstrably outweighs the harm. Paragraph 193(c) of the NPPF advises that development resulting in the loss or deterioration of irreplaceable habitats such as ancient woodland should be refused unless there are wholly exceptional reasons and a suitable compensation strategy exists. This affirms that ancient woodland is classified as an irreplaceable habitat, and that any loss or deterioration – whether direct or indirect – triggers a refusal unless both strict conditions are satisfied. ‘Deterioration’ is defined as including any adverse impact, direct or indirect – such as soil disturbance, hydrological alteration, nutrient deposition, increased access, or shading. The test applies even in the absence of physical loss of trees or where there are no trees currently in the Ancient Woodland.
- (i) Whether the Development Would Result in Loss or Deterioration
- 6.156 The judicial review / legal challenge to the discharge of condition approval detailed above, was partly related to the impact of the scheme on the Ancient Woodland and required buffer. Neither this judgement nor the subsequent on the Section 73 application, nor the most recent quashing order,

reached a conclusion that any permission granted on the site should provide a minimum 15m buffer. Rather both decisions were quashed based upon legally erroneous approaches that had been taken to the discharge of condition in the first instance, and the retrospective effect of such a quashing upon the section 73 permission in the second.

- 6.157 Within their response to the current application, Natural England (NE) refer to their Standing Advice on Ancient Woodland which advises that *'For ancient woodlands, the proposal should have a buffer zone of at least 15 metres from the boundary of the woodland to avoid root damage (known as the root protection area).'* NE also state that the proposals as presented have the potential to adversely affect woodland classified on the ancient Woodland Inventory. The previously approved (now lapsed) permission required a 5 meter buffer, following consultation with the Council's Biodiversity Officer. Nevertheless, the details submitted failed to achieve this buffer and the legal challenge succeeded on the ground that the approval of the plans did not account for the impossibility of achieving the 5 meter buffer.
- 6.158 Submitted in support of the application is an Ecology Assessment (EA) which has undertaken a condition survey of the Ancient Woodland and sets out an assessment of the impact of the development upon the Ancient Woodland. The BSG Ecology report assesses direct and indirect impacts and concludes that any impacts would be very limited in nature and would not result in substantial deterioration of the woodland's special qualities. However, as Officers note at paragraph 6.161 below, some minimal indirect deterioration is acknowledged for the purposes of engaging the test under NPPF paragraph 193(c).
- 6.159 Furthermore, in addition to the assessment of the direct and indirect impacts the report also includes an assessment of the scheme in comparison to the guidance set out by Natural England and the Forestry Commission.
- 6.160 The Revised Ecological Assessment report (April 2025) submitted as part of the application sets out an assessment of the direct and indirect impact of the development upon the woodland. It concludes that any impacts would be very limited in nature and would not result in substantial deterioration of the woodland's special qualities. Whilst Officers note this conclusion, they have approached the matter on a precautionary basis, and their own assessment is set out below.
- 6.161 Officers conclude that there will be some minimal indirect deterioration of the adjacent Ancient Woodland as a result of the proposed development. This level of deterioration is sufficient to engage the test set out at paragraph 193(c) of the NPPF, which requires that development resulting in the loss or deterioration of ancient woodland should be refused unless there are wholly exceptional reasons and a suitable compensation strategy exists. The application of these two tests is addressed under the sub-headings below.
- 6.162 The proposed development will be set away from the edge of the woodland by five metres (beyond the existing ditch) through the provision of a buffer area which will be separated from rear gardens by means of enclosure. The proposed dwellings will then be set a further ten metres away from the rear boundary. The five metre buffer area will be planted to provide valuable habitat to protect the Ancient Woodland.
- 6.163 The Natural England Guidance outlines that the size and type of buffer area should vary depending on the scale and type of development and its effect on the ancient woodland and the character of the area. In this instance the Ecology Assessment prepared by BSG outlines that the five metre buffer, due to the nature of the woodland, the undeveloped nature of land to the north and the existence of

the land level changes and drainage channel between the site and the Ancient Woodland is sufficient to offer protection to its special qualities.

- 6.164 The arboricultural assessment references the drainage feature on the boundary between the application site and the ancient woodland as a factor which, in combination with significant land level changes, limits the extent of root extension towards the application site.
- 6.165 Officers are aware that the ecology report at paragraph 4.8 notes a recently constructed ditch which was treated as temporary for BNG purposes. Officers confirm, having taken internal arboricultural and ecological advice, that the drainage feature relied upon as a site characteristic limiting root extension is a permanent feature distinct from any temporary construction works. Both advisers confirm that the 5 metre buffer is adequate in the particular circumstances of this site. The site-specific factors justifying this conclusion are the permanent drainage ditch running along the boundary between the application site and the ancient woodland; the significant land level changes between the development platform and the woodland edge; and the contained and manageable nature of any residual indirect impacts given the proposed means of enclosure and the managed buffer secured by condition. Officers expressly do not rely on the existing depleted condition of the ancient woodland in reaching this conclusion, in accordance with Natural England's Standing Advice.
- 6.166 Officers are aware that the owner of the adjoining woodland has indicated an intention to restock the woodland. The indicative restocking plan suggests a hedge bordering the boundary with the application site, a small strip of open space and then shrub planting before the proposed woodland replanting begins (see Figure 2). If carried out, this would provide approximately 10 metres of additional land between the woodland trees and the development site, giving a total separation of approximately 15 metres between the proposed new woodland planting and the beginning of the gardens serving the proposed dwellings.
- 6.167 However, the restocking land lies outside the application site boundary and is not within the ownership or control of the applicant. It cannot therefore be secured by condition or planning obligation, and Officers have not relied upon the restocking scheme as a material factor in concluding that the proposed development is acceptable in relation to the Ancient Woodland. The Council's assessment of the adequacy of the buffer and the impact upon the Ancient Woodland stands on its own merits, as set out in the paragraphs above and below, independently of whether the restocking scheme comes forward. Should the restocking be carried out by the owner of the adjoining woodland, this would provide a welcome additional degree of protection, but it is not a necessary condition of the Council's conclusion that the proposed development is acceptable.
- 6.168 The CNLB remains concerned with the proposed proximity of development to the Ancient Woodland. They also note that the area between the 5m buffer zone and the 15m standoff limit appears to include a number of residential gardens, parking spaces, and patio areas, which is contrary to Natural England's Standing Advice which states "*You should not approve development proposals, including gardens, within a buffer zone*". The CNLB suggest that no residential curtilages should be permitted within the 15m standoff zone.
- 6.169 Officers have considered the CNLB's concern carefully and recognise that the area between the 5 metre ecological buffer and the built development includes rear garden areas, patio areas and, in some plots, parking spaces. Natural England's Standing Advice states that gardens should not be approved within a buffer zone. Officers have addressed this point directly. The NE Standing Advice represents guidance rather than a binding requirement, and the weight to be attached to it is a matter of planning judgment. In this case, having regard to the site-specific factors identified above

(including the drainage feature, land level changes, and the requirement for a robust stone wall boundary secured by condition and Informative 6), Officers are satisfied that the 5 metre ecological buffer provides adequate protection to the ancient woodland in the specific circumstances of this site, notwithstanding that some residential curtilage falls within the wider 15 metre guidance zone. All built structures are maintained at a minimum of 15 metres from the edge of the woodland. Officers acknowledge that Natural England's Standing Advice states that gardens should not be approved within a buffer zone, and that some residential garden curtilage and hardstanding for certain plots falls within the wider 15 metre guidance zone.

- 6.170 Having regard to the site-specific factors identified above, including the permanent drainage ditch, the land level changes, and the robust stone wall boundary required by Condition 22 and Informative 6, Officers are satisfied that the 5 metre managed ecological buffer provides adequate protection to the ancient woodland in the specific circumstances of this site. The stone wall requirement is essential to this conclusion, as it will prevent encroachment from gardens into the buffer zone. Permitted development rights are removed for plots 26 to 37 by Condition 26 to prevent future encroachment. The Council is satisfied this is an acceptable approach in the particular circumstances of this site.
- 6.171 CPRE further does not consider that the assessment of biodiversity net gain takes into account the increased damage to the ancient woodland through human and domestic pet encroachment. This has been taken into account by the Council's Biodiversity Officer in their consideration of the application who has raised no objection on this basis as set in the 'Biodiversity' section below.
- 6.172 Natural England was consulted on this application, and their response was received on 28 November 2023. Natural England raised NO OBJECTION to the proposal, though they did state that the proposals as presented have the potential to adversely affect woodland classified on the ancient Woodland Inventory.
- 6.173 Natural England's response also included their standard generic advice on other natural environment issues, set out at Annex A to their response. In relation to ancient woodland, it is noted that the proposals have the potential to adversely affect woodland classified on the Ancient Woodland Inventory and directed the Council to consider any impacts in line with the NPPF and to have regard to the Natural England and Forestry Commission standing advice. Natural England confirmed that they would not provide bespoke advice on ancient woodland impact in this case, as the woodland does not form part of a Site of Special Scientific Interest and no exceptional circumstances for bespoke advice were identified.
- 6.174 The assessment of the impact of the proposed development upon the Ancient Woodland has been carried out by the applicant's ecologist (BSG Ecology) and also by the Council's own Biodiversity Officer. In considering the impact, the Council has had regard to the Natural England and Forestry Commission standing advice in reaching its conclusions, as set out in the paragraphs above and below.
- 6.175 The Council's Tree Officer and Biodiversity Officer have both reviewed the proposals and have raised no objection in relation to impact on the ancient woodland and appropriate conditions relating to ecology, biodiversity, boundary treatment, and Construction Environmental Management Plan are suggested that would be attached to any permission granted and would mitigate any potential harm.
- 6.176 The Natural England Guidance identifies that the buffer zone provided for any development should contribute to the wider ecological networks and be part of the green infrastructure for the areas. It should also consist of semi natural habitats such as a mix of scrub, grassland, heathland, and wetland

establishing habitat of local and appropriate native species. It is not intended that the buffer zone with the woodland will be accessed and for this reason it will be separated from the rear gardens by a means of enclosure and managed by the management company responsible for the public areas of the wider development.

- 6.177 The application proposes a significant woodland block to the north of the existing woodland to provide connection to and enhancement of the setting of the Ancient Woodland and connection to other habitats in the near vicinity. The buffer zone and hedgerows around the site, which will be retained, will provide connection to the Ancient Woodland and the open countryside which sits to the north of the site (beyond the woodland block).
- 6.178 On this basis, whilst the guidance of Natural England is acknowledged, the specific nature of this site and the expert opinions of the ecologist and arboriculturist mean that, in this instance, a lesser buffer of 5 metres is appropriate. The combination of the 5 metre managed ecological buffer (secured by condition and managed in perpetuity), the robust stone wall enclosure (Condition 22 and Informative 6), and the permanent site characteristics described above are considered sufficient to protect the woodland's special qualities in the specific circumstances of this case. The proposal would mitigate the minimal deterioration of the woodland identified with the applicant entering into a s106 legal agreement requiring a management company to maintain the buffer areas and wider landscaping in perpetuity.

(ii) Wholly Exceptional Reasons (NPPF paragraph 193(c)(i))

- 6.179 The wholly exceptional reasons in this case are: the significant and evidenced affordable housing need in Charlbury, with over 100 applicants on the Council's waiting list and an identified need for 23 affordable homes in the Neighbourhood Plan; the provision of specialist assisted living bungalows meeting an identified care need that cannot be met elsewhere given the constrained AONB location and absence of alternative deliverable sites; and the limited and minimal nature of the harm to the woodland in the specific circumstances of this site. In accordance with PPG paragraph 33, the mitigation and compensation measures are not themselves counted as exceptional reasons.

(iii) Suitable Compensation Strategy (NPPF paragraph 193(c)(ii))

- 6.180 The compensation strategy, distinct from the mitigation measures, comprises the provision of a new area of native woodland to the north of the existing ancient woodland, secured by s106 obligation and maintained in perpetuity by a management company. This new woodland planting is reflected in the Biodiversity Net Gain calculation and constitutes compensation for the minimal indirect deterioration of the ancient woodland identified above. For the avoidance of doubt, this compensation strategy is not itself counted among the wholly exceptional reasons identified; it is a separate requirement under NPPF paragraph 193(c)(ii). The mitigation measures, comprising the managed 5 metre buffer zone, the means of enclosure, and the Landscape and Ecological Management Plan, are separate from and additional to the compensation strategy.

Ancient Woodland - Conclusion

- 6.181 On the basis of the above, Officers are satisfied that both tests under NPPF paragraph 193(c) are met: wholly exceptional reasons exist and a suitable compensation strategy is in place. The proposed development is therefore considered to comply with Policy EH3 of the Local Plan and paragraph 193(c) of the NPPF in relation to ancient woodland.

Trees

- 6.182 Policy EH2 of the Local Plan identifies that development proposals should conserve and where possible enhance the intrinsic character and quality of the local landscape. Similarly, policy NE5 of the CNP seeks to protect trees (biodiversity is covered elsewhere).
- 6.183 A Tree Constraints Plan, Arboricultural Impact Assessment (AIA) and a tree retention and protection plan have been submitted in support of the application. The submitted AIA identifies the trees around all of the boundaries of the site and the root protection areas for each of those trees. A key arboricultural constraint relates to the southern boundary where an oak tree is located which has a large root protection area. The AIA identifies that with suitable tree protection measures during construction and given the offset from the trees in the completed development the proposed development would not have an adverse impact upon the health and stability of trees.
- 6.184 Furthermore, the provision of trees throughout the site in the subsequent landscape proposals would add to the tree stock in the locality.
- 6.185 No objection has been raised by the Council's Tree Officer to the proposal. No trees are planned to be removed for the site as part of the development. The proposed planting scheme is considered acceptable in terms of numbers. All existing trees on the site are to be retained with a 5m landscaped buffer zone directly next to the Ancient Woodland, together with a further 10m zone where permitted development rights for built development would be removed. This is adequate to protect the Ancient Woodland from activities connected with the development. As such, the roots of the trees that are growing in the Ancient Woodland adjacent to the site will be safeguarded against damage or compaction during the construction phase and later use of the site.
- 6.186 The arboricultural information demonstrates that the proposed development would have no adverse impact upon the health and stability of any trees, nor would the proposal result in the requirement for any pruning of trees to be retained. Three trees are identified as being removed due to the current poor condition of those trees. These will also be replaced as part of future planting proposals to be secured by condition. The adequacy of the buffer and protection of the ancient woodland is established independently of any restocking of the adjacent woodland as noted above, the restocking scheme is not within the applicant's ownership or control and cannot be secured by condition or obligation. Should the restocking be carried out by the woodland owner this would provide a welcome additional degree of protection, but the Council's conclusion on acceptability does not depend upon it
- 6.187 The proposed development therefore complies with the requirements of policy EH2 of the Local Plan and policy NE5 of the CNP.

Biodiversity

- 6.188 Policy EH3 of the Local Plan requires development proposals to protect and enhance biodiversity with the requirement to achieve an overall net gain in biodiversity where possible. Furthermore, the NPPF notes that the planning decisions should contribute to and enhance the natural and local environment through minimising impacts on and providing net gains for biodiversity including by establishing coherent ecological networks. Paragraph 180 of the NPPF goes on to say that is significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts, adequately mitigated, or, as a last resort, compensated for), then planning permission should be refused.

- 6.189 An Ecological Assessment has been undertaken in relation to a range of species including Bat, Badger, Great Crested Newt, Water Voles and Dormice. The conclusions of the above report confirms that the proposed development would not have a significant adverse impact upon biodiversity. The proposed development would, however, provide landscaping which would contribute to the local ecological network through the provision of the woodland blocks and the buffer areas. This aligns with the requirements of policy NE5 of the CNP and the supporting text which highlights that development should enrich wildlife corridors and opportunities for new woodland planting.
- 6.190 Submitted in support of the application is a biodiversity net gain calculation which demonstrates that the resultant development will result in a biodiversity net gain of 20.06% in habitat units and a 78.34% net gain in hedgerow (linear units). As the site is adjacent to a watercourse the BNG calculation of this has been provided however, as no works are proposed in this area, the calculator confirms that the impact here is neutral. The BSG Ecology Update (April 2026) confirms the 2024 BNG calculation remains applicable without material change.
- 6.191 On the basis of the submitted and updated Ecological Assessment reports, Officers consider that the proposed development would not have a significant adverse impact upon protected species utilising the site, including bats, badgers, great crested newts, water voles, and dormice. The surveys confirm these species are either absent or that any impacts can be adequately mitigated through the biodiversity measures and conditions described above
- 6.192 Furthermore, the development would provide biodiversity net gain in linear and hedgerow units in excess of 10%. As such, the proposal is considered to comply with the requirements of Policy EH3 of the Local Plan and Policy NE5 of the CNP.
- 6.193 Natural England (NE) raise no objection to the application based on the plans submitted and considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites. NE also refer to their generic advice contained in Annex A.
- 6.194 CPRE West Oxfordshire consider that there will be more light pollution which will detrimentally affect nocturnal species of bats and invertebrates and as such light pollution will have a major adverse effect for biodiversity and dark skies. They have also raised concern that the applicant's assessment of biodiversity net gain does not take into account the increased damage to the ancient woodland through human and domestic pet encroachment.
- 6.195 The proposal has been carefully considered by the Council's Biodiversity Officer who has raised no objection in principle to the proposal. The concerns raised by CPRE in relation to potential future impact of human and domestic pet encroachment on the ancient woodland has been carefully considered and the Biodiversity Officer considers this to be acceptable and the requirements of paragraph 193 of the NPPF would be met. Conditions relating to ecology, biodiversity, boundary treatment, landscaping, lighting, and Construction Environmental Management Plan as suggested would be attached to any permission granted to mitigate any potential impact on ecology and biodiversity. This includes details of all external lighting, including street lighting, particularly the rear security lighting on the plots facing onto boundary habitats (adjacent ancient woodland site, hedgerows, and stream corridors) to be agreed in advance of any above ground works taking place. Such details will clearly need to demonstrate that lighting will not cause any excessive light pollution or disturb or prevent bats or other species using key corridors, foraging habitat features or accessing roost sites and would address the concerns raised by CPRE West Oxfordshire.

- 6.196 The Newt Officer has commented that there is a low risk that great crested newts (GCN) may be present at the application site. However, the application site lies within a red impact zone as per the modelled district licence map, which indicates that there is highly suitable habitat for GCN within the area surrounding the application site. Therefore, the Newt Officer recommends that an informative be attached to any planning permission granted.
- 6.197 In view of the low but non-zero risk of great crested newts being present, a condition is recommended requiring a GCN survey to be undertaken prior to the commencement of any ground works if not already carried out within the preceding 12 months. Officers are satisfied that there is no reason to believe that a derogation licence from Natural England could not be obtained if required, given the nature of the proposed development and the biodiversity mitigation measures proposed. The recommendations of the Newt Officer are addressed through the Construction Environmental Management Plan condition (Condition 23) and Informative 1.

Sustainability/Climate Change

- 6.198 In accordance with Policy OS3 of the Local Plan, the development is required to demonstrate consideration of the efficient and prudent use and management of natural resources including minimising the use of non-renewable resources and energy demands / loss through design, layout, orientation, landscaping, materials, and the use of technology. Policy NE9 of the CNP also highlights the need for energy and water efficiency measures for new development and requires applicants to demonstrate how excellent environmental performance will be achieved.
- 6.199 The application site is located within walking distance of the town centre of Charlbury with access to a small supermarket, post office, public houses, and restaurants. The town is served by a local doctors surgery and dental practice and there is a primary school. All of these indicate that the majority of day to day activities could be served within walking distance of the development.
- 6.200 In addition, the town is served by a train station, also within walking distance of the site. This provides the town with an hourly service with connections to Worcester and London Paddington (which includes Oxford and Reading). Bus services operate between the town and Witney, Chipping Norton, and Oxford City Centre (the X9 and S3 services) and the bus stops for these are also within walking distance of the development site. This demonstrates that the development is located where the need to travel by the private car is minimised and that alternative options for travel to the private car are readily available within walking distance.
- 6.201 In addition to the sustainable location, the proposed dwellings will be provided with EV charging points to encourage the use of greener vehicles for those journeys which do require the private car.
- 6.202 The Energy and Sustainability Statement submitted in support of the application uses the more recently published sustainability checklist produced by the Council which sets out requirements which exceed the policy requirements set out in the Local Plan to assess the sustainability of the scheme. The report demonstrates that the proposed development complies with the requirements of the Sustainability Checklist which exceeds the requirement of Local Plan policy. The CNP notes that developments should achieve excellent environmental performance which has been demonstrated through the submitted statement. Energy and water efficiency measures are to be included in the proposed development through water efficient fixtures for example. These proposals therefore exceed the requirements of the policy and are significantly improved when compared to the previously approved scheme.

6.203 The Council's Air Quality Officer welcomes the inclusion of photovoltaics, cycle storage and electric vehicle charging (including e-bikes and scooters) in each property. On the basis of the above, Officers are satisfied that the proposed development complies with Policy OS3 of the Local Plan in relation to the prudent and efficient use of natural resources and energy, and with Policy NE9 of the Charlbury Neighbourhood Plan in relation to energy and water efficiency.

S106 Contributions

6.204 Policy OS5 of the Local Plan seeks to ensure that new development delivers or contributes towards the provision of essential supporting infrastructure.

6.205 The applicant has referred to the provision of 57% affordable housing which exceeds the 40% contribution required by policy. This will be comprised of affordable housing with the exact mix to be the subject of a legal agreement. The seven assisted living bungalows would also be secured via S106 to be retained in perpetuity to meet the care needs of the area.

6.206 Policy H5 also requires the provision of 5% of the residential plots to be serviced and made available for custom and self-build housing. The proposal would provide a 32% Self/ Custom build properties in excess of policy.

6.207 Matters relating to the provision of Green Infrastructure (including biodiversity net gain compliance), play areas, open space and public art will also be secured via the S106 legal agreement together with required monitoring costs. The following financial contributions towards sports and recreational facilities, and public art requested by WODC are:

- Outdoor pitch provision contribution of £73,194.14 towards enhancements and improvements to sports pitches and ancillary facilities in the catchment area.
- Artificial pitch provision contribution of £2,626 towards the cost of a replacement or improvement to artificial pitches in the catchment area.
- Sport hall/ studio provision contribution of £17,116 toward the cost of an enhancement or improvement to sports halls/ studios in the catchment area.
- Swimming pool provision of £20,648 towards the cost of an enhancement or improvement to pools in the catchment area.
- Tennis Court provision contribution of £1,318 towards the cost of an enhancement or improvement to tennis courts and facilities within the catchment area.
- Public Art contribution of £3,780 to develop temporary public art activity on and off site to foster connectivity for and with residents' post occupation; and
- Primary Health Care contribution of £33,529 towards the creation of additional clinical capacity at Charlbury MC or an identified primary care estates project in the local area to serve the development.

6.208 The following on and off site contributions have also been sought by OCC, as set out in their consultation response:

- Public transport contribution of £41,921 towards public transport services, namely the continued/ improved operation of bus services serving Charlbury;
- Special school education contribution of £23,608 towards special school education capacity serving the development; and
- Waste contribution of £3,477 towards household waste recycling centres within the vicinity of the site.

7 CONCLUSION AND PLANNING BALANCE

- 7.1 As the Council cannot demonstrate evidence of a five year supply of deliverable housing sites, the relevant development plan policies for the supply of housing are considered out-of-date and that is a material consideration that weighs in favour of the grant of planning permission.
- 7.2 Where policies for the supply of housing are out of date, paragraph 11 of the NPPF indicates that planning permission be granted unless (i) the application of policies contained in the framework that protect areas or assets of particular importance (such as those relating to the AONB/national landscapes and irreplaceable habitats) provide a strong reason for refusal, or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 7.3 The proposed development would result in minimal indirect deterioration of the adjacent ancient woodland. It would not result in any direct loss of ancient woodland. Officers are satisfied that wholly exceptional reasons exist and that a suitable compensation strategy is in place for the purposes of NPPF paragraph 193(c), for the reasons set out in this report.
- 7.4 In relation to the AONB, whilst the proposal would encroach into the rural landscape of the AONB resulting in a loss of what is currently open undeveloped land and an adverse impact on the rural appearance and character of the landscape, in the longer term, this impact could be mitigated through appropriate landscaping to reduce its visual impact. The proposal would be contained to a large extent due to its landscape setting and does not result in a harmful erosion of the wider character of the AONB, nor the purpose of the designation.
- 7.5 The proposed development would have no adverse impact upon existing trees and would provide suitable offset from those retained trees both during construction and following occupation. In the Cotswold National Landscape (AONB) great weight should be given to conserving and enhancing landscape and scenic beauty. Even though these harms are small, any harm to the AONB should be given great weight.
- 7.6 It is acknowledged that there are some harms associated with the development as set out above. However, these harms are considered to be outweighed by the planning benefits and public interest which arise. In relation to NPPF paragraph 193(c), Officers are satisfied both that wholly exceptional reasons exist (as set out at the Ancient Woodland section of this report) and that a suitable compensation strategy exists, comprising the provision of a new area of native woodland to the north of the existing ancient woodland, secured by s106 obligation and maintained in perpetuity. These are separate and cumulative requirements, both of which are met.
- 7.7 The benefits are considered to be the contribution to overall housing numbers (as the site is already included in the housing delivery trajectory), the provision of affordable housing in excess of the requirements of the local plan and the provision of specialist housing which is in demand in the local area and Charlbury, the contribution to the local economy and the provision of biodiversity net gain. In addition, s106 contributions will be made to the benefit of local schools, community facilities and improvements to footpaths will be provided. Accordingly, having applied great weight to the small scale harms Officers do not consider that the extent of harm would weigh so heavily as to justify refusal. Even if it were considered to be major development it is Officer's assessment that the extent of harm is such that even having applied great weight, it can be demonstrated that there are exceptional circumstances to conclude that the development would be acceptable.

7.8 The identified benefits, in particular the affordable housing need in Charlbury, the provision of specialist assisted living accommodation, and the absence of alternative deliverable sites within the constrained AONB location, constitute wholly exceptional reasons under NPPF paragraph 193(c)(i). The new native woodland planting to the north of the existing ancient woodland, secured by s106 and managed in perpetuity, constitutes a suitable compensation strategy under NPPF paragraph 193(c)(ii). These are separate and cumulative requirements, both of which are met. The same combination of benefits also demonstrates exceptional circumstances and public interest for the purposes of NPPF paragraph 190, should the Committee conclude the development is major development.

7.9 In order to judge whether a development is sustainable it must be assessed against the three dimensions of sustainable development set out in the NPPF: the social, economic, and environmental planning roles.

7.10 The proposed development represents sustainable development in line with the NPPF for the following reasons:

- Social – The proposal would positively support the delivery of housing, including affordable housing, in a location which has good access to the services and facilities which are required for day to day living. The proposal would provide a well-designed scheme which provides affordable housing, specialist housing and market housing meeting the identified housing need within the Charlbury area. Significant weight is attached to this social benefit.
- Economic – the Government has made clear its views that house building plays an important role in promoting economic growth. The development would make effective use of the land and would add to the vitality of Charlbury through the provision of additional spend in the local area. In economic terms, the proposal would provide construction jobs and local investment during construction, as well as longer term expenditure in the local economy. It is considered that moderate weight should be afforded to these benefits.
- Environmental – the proposal would respect the character of the locality and whilst in the AONB does not detract from the wider landscape. The development is to be constructed to a high specification limiting energy use and utilising air source heat pumps for heating and hot water provision. Solar panels are to be provided reducing reliance on the national grid and electric charging points for electric vehicles will be provided throughout.

7.11 The proposed development is supported in principle given its location adjacent to the existing settlement and given the identified substantial local need for housing. It is also noted that the Council previously supported development of a similar scale and built envelope on the site under two previous permissions and concluded that development was acceptable in line with planning policy.

7.12 There would be no significant harm to protected species and biodiversity would be enhanced with a biodiversity net gain of 20.06% in habitat units and a 78.34% net gain in hedgerow (linear units). The proposal would accord with the Council's sustainability checklist providing properties with air source heat pumps, electric vehicle charging points and solar panels. The contemporary take on the local vernacular featuring narrow gables and steeply pitched roofs reflects the guidance of the design guide. Supporting reports demonstrate that technical matters such as drainage and highways do not result in any unacceptable impacts.

- 7.13 Additionally, it is demonstrated that the limited 'less than substantial harm' which is caused to the heritage assets (adjacent train station building) would be outweighed by public benefits and an appropriate landscape strategy could assist in mitigating some of this harm.
- 7.14 Overall, the proposed development is in accordance with the development plan (the Local Plan and the CNP) taken as a whole. The proposed development provides for a number of planning benefits which will arise from the proposed development and improvements over the previously approved scheme. The benefits achieved from the proposed development are compelling when considered against the harm identified by the proposed development by providing contributions to much needed affordable accommodation and specialist accommodation as well as wider benefits through contributions secured via a s106 agreement in a highly sustainable location with minimal impacts upon the AONB and the adjacent ancient woodland.
- 7.15 Turning to the overall planning balance as directed by paragraph 11 of the NPPF given the tilted balance, the NPPF indicates that permission should be granted unless one of the two situations set out in paragraph 11d apply. In relation to the first, the above assessment demonstrates that none of the policies set out in NPPF footnote 7 (such as those relating to Ancient Woodland and National Landscape) would provide a strong reason to refuse permission. In relation to the second, planning permission should be granted unless: *'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.'* And the above assessment indicates that there are no justifiable reasons to refuse planning permission. It is Officer opinion that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits and as such, planning permission should be granted.
- 7.16 The application is therefore recommended for approval, subject to the suggested conditions and the applicant entering into a legal agreement.

8 CONDITIONS

1. TIME LIMIT

The development hereby permitted shall begin not later than 3 years from the date of this decision.

REASON: In accordance with Section 91 of the Town & Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. APPROVED PLANS

That the development be carried out in accordance with the approved plans listed below.

- Charlbury House Type Pack Rev B
- SL-001 Rev F – Site Layout
- SL-002 Rev C – Coloured Site Layout
- SL-004 Rev D – Materials Plan
- SL-005 Rev D – Means of Enclosure
- SL-006 Rev D – Surface Materials Plan
- SL-008 Rev D – Storey Heights Plan
- SL-009 Rev D – Refuse Strategy
- SL-100 Rev D – Parking Strategy
- I120.1 07 Rev J – Detailed Landscape Layout

- 210872 – Internal SPA Tracking

REASON: For the avoidance of doubt as to what is permitted.

3. MATERIALS

No dwelling shall be erected beyond the damp proof course until a schedule of materials to be used in the elevations and roofs of the development are submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in the approved materials.

REASON: To ensure a suitable appearance for the development and to protect the character and appearance of the area.

4. TRAVEL PLAN

Prior to the first occupation of the development hereby approved, a Travel Plan, prepared in accordance with the Department of Transport's Best Practice Guidance Note "Using the Planning Process to Secure Travel Plans," to include details of a Travel information Pack for residents, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented and operated in accordance with the approved details.

REASON: In the interests of sustainability and to ensure a satisfactory form of development, in accordance with Government guidance contained within the National Planning Policy Framework (2024).

5. OFFSITE HIGHWAY WORKS

No part of the development hereby approved shall be occupied until the offsite highway works have been laid out and constructed in accordance with details to be submitted to and first approved in writing by the Local Planning Authority in consultation with the Highway Authority. The works shall include:

- Formation of site access junction to Forest Road
- A scheme of off-site improvements including: the widening of the footpath on the north side of Forest Road, the formation of footpath on the south side of Forest Road to aid pedestrian access to Charlbury station and the amendment of the speed limit and a programme for their implementation.

REASON: To ensure a safe and adequate access to the site for all users.

6. ELECTRIC VEHICLE CHARGING POINTS

Prior to first occupation of any of the dwellings hereby approved, written and illustrative details of the number, type and location of electric vehicle charging points (EVCP) shall be submitted to and approved in writing by the local planning authority. The EVCP shall be installed and brought into operation in accordance with the details agreed prior to occupation of the development.

REASON: In the interests of air quality and to reduce greenhouse gases.

7. CONSTRUCTION TRAFFIC MANAGEMENT PLAN

Prior to commencement of the development hereby approved, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. The CTMP will need to incorporate the following in detail:

- The CTMP must be appropriately titled, include the site and planning permission number.
- Routing of construction traffic and delivery vehicles is required to be shown and signed appropriately to the necessary standards/requirements. This includes means of access into the site.
- Details of wheel cleaning/wash facilities – to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway.
- The erection and maintenance of security hoarding / scaffolding if required.
- A regime to inspect and maintain all signing, barriers etc.
- Contact details of the Project Manager and Site Supervisor responsible for on-site works to be provided.
- The use of appropriately trained qualified and certificated banksmen for guiding vehicles/unloading etc.
- Layout plan of the site that shows structures, roads, site storage, compound, pedestrian routes, and vehicle parking etc.
- Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours.

Thereafter, the approved CTMP shall be implemented and operated in accordance with the approved details.

REASON: In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding highway network, road infrastructure, and local residents, particularly at morning and afternoon peak traffic times.

8. CYCLE PARKING

Prior to the first occupation of any dwelling hereby approved, secure and covered cycle parking shall be provided at the location shown on drawing SL-010 Rev D serving that dwelling. 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 (2024).

9. CAR PARKING

The car parking areas hereby approved shall be provided in accordance with the details shown and be available prior to the first occupation of the dwelling it served. The parking areas shall be bound, formed, and laid out in accordance with the approved details and retained in place thereafter solely for the purpose of parking vehicles ancillary to the permitted uses unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure that adequate car parking facilities are provided in the interests of highway safety.

10. CONTAMINATION – PRIOR TO COMMENCEMENT

No development shall take place until a desk study has been produced to assess the nature and extent of any contamination, whether or not it originated on site, the report must include a risk assessment of potential source-pathway-receptor linkages. If potential pollutant linkages are identified, a site investigation of the nature and extent of contamination must be carried out in accordance with a methodology which has previously been submitted to and approved in writing

by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any significant contamination is found during the site investigation, a Remediation Scheme specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before any development begins.

REASON: To prevent pollution of the environment in the interests of the amenity.

11. CONTAMINATION – PRIOR TO OCCUPATION

The Remediation Scheme, as agreed in writing by the Local Planning Authority, shall be fully implemented in accordance with the approved timetable of works and before the development hereby permitted is first occupied. Any variation to the scheme shall be agreed in writing with the Local Planning Authority in advance of works being undertaken. On completion of the works the developer shall submit to the Local Planning Authority a Verification Report confirming that all works were completed in accordance with the agreed details.

If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

REASON: To prevent pollution of the environment in the interests of the amenity.

12. FOUL WATER CAPACITY

No part of the development hereby approved shall be occupied until confirmation has been provided that either: 1. Foul water Capacity exists off site to serve the development, or 2. A development and infrastructure phasing plan has been submitted to and agreed in writing with the Local Authority in consultation with Thames Water. Where a development and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan, or 3. All Foul water network upgrades required to accommodate the additional flows from the development have been completed.

REASON: Network reinforcement works may be required to accommodate the proposed development. Any reinforcement works identified will be necessary in order to avoid sewage flooding and/or potential pollution incidents.

13. DRAINAGE

The drainage system hereby approved shall be implemented in accordance with the approved Detailed Design prior to the first use of that part of the development it serves including:

Document

- Flood Risk Assessment and Drainage Strategy prepared by Travis Baker for Harper Crewe Ltd (Ref: 22135 Rev. C) dated 21 May 2024.

Drawing

- Drainage Strategy reference IN116 Oct 2023
- Appendix 1 – Topographical Survey produced by Geoff Perry Associates
- Appendix 2 – Thames Water Pre-Planning Enquiry
- Appendix 3 – Thames Water Asset Location Search

- Appendix 4 - Soakaway Extract taken from Ridge and Partners LLP Ground Investigation Report
- Appendix 5 – Drainage Strategy Drawing Number IN-116
- Appendix 6 – Drainage Strategy Drainage Areas Plan Drawing Number IN-114
- Appendix 7.1 – Water Quality Assessment – Parking
- Appendix 7.2 – Water Quality Assessment – Roads
- Appendix 7.3 – Water Quality Assessment – Rooves
- Appendix 8.1 – FLOW Drainage Calculations – 2yr Storm Event
- Appendix 8.2 – FLOW Drainage Calculations – 30yr Storm Event
- Appendix 8.3 – FLOW Drainage Calculations – 100yr Storm Event
- Appendix 8.4 – FLOW Drainage Calculations – 100yr+40% Climate Change Storm Event
- Appendix 9 – Typical Drainage Strategy Maintenance Regime

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

14. RECORD OF INSTALLED SUDS AND SITE WIDE DRAINAGE SCHEME

Prior to first occupation of the development, a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:

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

REASON: To ensure the proper provision for surface water drainage and/ or to ensure flooding is not exacerbated in the locality.

15. ENERGY AND SUSTAINABILITY

The proposed development shall be carried out in accordance with the key recommendations as set out in the submitted Energy and Sustainability Statement prepared by Savills Earth dated 8th August 2024.

REASON: In the interests of climate change.

16. ACCOUSTIC ASSESSMENT

The development shall be carried out strictly in accordance with the Acoustics Assessment by MEC Consulting Group (Report Ref: 28548-ENV-0401 Rev B) dated April 2025 hereby approved. All recommendations outlined in the approved 'Acoustic Assessment' shall be implemented and completed prior to the first occupation of the development. These details shall be thereafter maintained, unless otherwise agreed in writing by the Local Planning Authority. Should any alterations be made to the development that could materially affect the results of the 'Acoustic Assessment', an updated assessment shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the affected works. This updated 'Acoustic Assessment', as approved, shall supersede all previous iterations.

REASON: In the interests of residential amenity.

17. SECURED BY DESIGN ACCREDITATION

The development hereby approved shall be carried out in accordance with the approved details of a Secure by Design Application unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of residential amenity.

18. HOURS OF WORK

Hours of work for construction shall be restricted to 08:00 to 18:00 Monday to Friday and 08:00-13:00 on Saturday with no working on Sunday or Bank Holidays. For clarity, there shall be no deliveries to site outside of these hours.

REASON: In the interest of protecting neighbour amenity.

19. BIODIVERSITY MITIGATION – ECOLOGICAL ASSESSMENT REPORT

The development shall be completed in strict accordance with the biodiversity mitigation and enhancement details in the following Ecological Assessment report dated 11 April 2025 by BSG Ecology and standard precautionary working methods for great crested newts. All the biodiversity mitigation and enhancement measures shall be implemented in full according to the specified timescales or at least before the development hereby approved is first brought into use and all the biodiversity mitigation and enhancement features shall thereafter be permanently retained and maintained for the stated purpose of biodiversity conservation.

REASON: To protect and enhance biodiversity in accordance with Local Plan Policy EH3, paragraphs 187, 192 and 193 of the National Planning Policy Framework (2024), and in order for the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

20. LANDSCAPING SCHEME

Notwithstanding the submitted details and prior to above ground works, an amended landscaping scheme incorporating the removal of Cherry Laurel and the replacement of non-native plants (especially those considered to be invasive) for native tree/shrub species wherever possible, and the inclusion of an additional specification for the northwestern area of new woodland planting within the site to encompass native understorey and shade-tolerant ground flora in phases to allow the planted trees to establish first, shall be submitted to, and approved in writing by, the Local Planning Authority.

The development shall be carried out in accordance with the amended scheme and shall be completed by the end of the next available planting season immediately following the completion of the development or the site being brought into use, whichever is the earliest.

REASON: To protect biodiversity, including the adjacent ancient woodland site, in accordance with Local Plan Policy EH3, paragraphs 187, 192 and 193 of the National Planning Policy Framework (2024), and in order for the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

21. TREE REPLACEMENT

If at any time in the five years following planting any tree, shrub, hedge, plant, or grassed area shall for any reason die, be removed, damaged, felled or eroded, it shall be replaced by the end of the next planting season to the satisfaction of the Local Planning Authority. Replacement trees, shrubs, hedges, plants, and grassed areas shall be of the same size and species as those lost, unless the Local Planning Authority approves alternatives in writing.

REASON: To ensure the success of the proposed landscaping scheme and associated biodiversity enhancements.

22. MEANS OF ENCLOSURE

Notwithstanding the submitted details and prior to above ground works, an amended means of enclosure plan incorporating rear garden boundary details to all plots facing onto the adjacent ancient woodland site, hedgerows and stream corridor shall be submitted to, and approved in writing by the Local Planning Authority.

The development shall be carried out in accordance with the amended plan and shall be completed by the end of the next available planting season immediately following the completion of the development or the site being brought into use, whichever is the earliest.

REASON: To protect the biodiversity value of the adjacent ancient woodland site, priority habitats, and wildlife corridors in accordance with Local Plan Policy EH3, paragraphs 187, 192 and 193 of the National Planning Policy Framework (2024), and in order for the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

23. CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

Notwithstanding the submitted details, no development shall take place (including demolition, ground works, and vegetation clearance) until a Construction Environmental Management Plan - Biodiversity (CEMP-B) has been submitted to and approved in writing by the local planning authority. The CEMP-B shall include, but not necessarily be limited to, the following:

- i. Risk assessment of potentially damaging construction activities, including dust and pollution on the adjacent ancient woodland site (as referenced in Appendix 2 of the Ecological Impact Assessment dated 19 March 2025 prepared by BSG Ecology), the construction of the drainage strategy infrastructure relating to the stream corridor and associated pollution control;
- ii. Identification of 'biodiversity protection zones';
- iii. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- iv. The location and timing of sensitive works to avoid harm to biodiversity features (e.g. daylight working hours only starting one hour after sunrise and ceasing one hour before sunset);
- v. Details of the installation of integrated bird and bat boxes into the residential dwellings (incorporated into the walls of the buildings) to be incorporate at least 10 no. bat and 10 no. bird boxes (e.g. swift bricks);
- vi. Use of protective fences, exclusion barriers, and warning signs, including advanced installation and maintenance during the construction period;
- vii. A non-native invasive species protocol (e.g. for Japanese knotweed) where necessary;
- viii. The times during construction when specialists ecologists need to be present on site to oversee works;
- ix. Responsible persons and lines of communication;
- x. The role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person(s);
- xi. Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works, including monitoring the impact of surface water drainage and outflows into the stream corridors; and

- xii. The submission of a verification report by the ECoW or similarly competent person(s) to the LPA at the end of the construction period.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

REASON: To ensure that biodiversity is safeguarded in accordance with The Conservation of Habitats and Species Regulations 2017, the Wildlife and Countryside Act 1981 as Amended, The Hedgerow Regulations 1997, Circular 06/2005, paragraphs 187, 192 and 193 of the National Planning Policy Framework (2024), and Local Plan Policy EH3, and in order for the Council to comply with Section 40 of the Natural Environment and Rural Communities Act 2006.

24. EXTERNAL LIGHTING

Notwithstanding the submitted details, before above ground works commence, details of all external lighting, including street lighting, shall be submitted to and approved in writing by the Local Planning Authority, particularly the rear security lighting on plots facing onto boundary habitats (adjacent ancient woodland site, hedgerows, and stream corridors). The details shall clearly demonstrate that lighting will not cause excessive light pollution or disturb or prevent bats or other species using key corridors, foraging habitat features or accessing roost sites. The details shall include, but not limited to, the following:

- i. A drawing showing sensitive areas and/or dark corridor safeguarding areas, including the ancient woodland site boundary, stream corridor, SUDS wetland and hedgerows;
- ii. Technical description, design, or specification of external lighting to be installed including shields, cowls, or blinds where appropriate;
- iii. A description of the luminosity of lights and their light colour;
- iv. A drawing(s) showing the location and where appropriate the elevation and height of the light fixings;
- v. Methods to control lighting control (e.g. timer operation, passive infrared sensor (PIR)); and
- vi. Lighting contour plans both horizontal and vertical where appropriate and taking into account hard landscaping, etc.

All external/internal lighting shall be installed in accordance with the specifications and locations set out in the approved details before the development hereby approved is first brought into use. These shall be maintained thereafter in accordance with these details. Under no circumstances shall any other external lighting be installed.

REASON: To protect roosting, foraging/commuting bats in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 (as amended), Circular 06/2005, paragraphs 187, 192 and 193 of the National Planning Policy Framework (2024), Policy EH3 of the West Oxfordshire Local Plan 2031 and in order for the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006 (as amended).

25. LANDSCAPE AND ECOLOGICAL MANAGEMENT PLAN

Notwithstanding the submitted details, before occupation of the development hereby approved, a final Landscape and Ecological Management Plan (LEMP) based on the Landscape Ecological Management Plan dated 19 March 2025 by BSG Ecology and covering the lifetime of the development shall be submitted to, and be approved in writing by, the local planning authority. The content of the LEMP shall include, but not necessarily be limited to, the following:

- i. Description and evaluation of features to be managed;
- ii. Landscape and ecological trends and constraints on site that might influence management;
- iii. Aims and objectives of management (including those related to species), including the following specific requirements:
 - a. establishment of the woodland understorey and ground flora;
 - b. de-silting of the pond sensitively to protect the liner or re-lining at intervals subject to monitoring results;
 - c. update to objective 2 in section 3.6 of the Landscape Ecological Management Plan dated 19 March 2025 by BSG Ecology to cover the impact of the drainage strategy, including monitoring of the outflows into the stream, and what remedial actions may need to be implemented where issues arise.
 - d. expanded monitoring in section 2.17 (objective 5) of the Landscape Ecological Management Plan dated 19 March 2025 by BSG Ecology to include the stream and lowland fen habitats.
 - e. Adaptation of the homeowner information sheet mentioned in section 4.10 of the Landscape Ecological Management Plan dated 19 March 2025 by BSG Ecology to cover other objectives for the site, i.e. other habitats and species, as the way of communicating all of the objectives of the LEMP to ensure that homeowners are fully aware of the biodiversity value of the site, the need to retain and manage the 5m buffer to the woodland and the landscape buffer detailed on drawing I 120.1 07 Rev J, as well as the newly created habitats on site, including the SUDS pond;
 - f. Amendment to section 4.14 of the Landscape Ecological Management Plan dated 19 March 2025 by BSG Ecology to include monitoring of the impact of the drainage strategy - pollution prevention from the outflows into the stream; and
 - g. Amendment to section 4.54 of the Landscape Ecological Management Plan dated 19 March 2025 by BSG Ecology to submit monitoring reports and updated versions of the LEMP to the local planning authority.
- iv. Appropriate management options for achieving aims and objectives, including appropriate enhancement measures;
- v. Prescriptions for management actions;
- vi. Preparation of a work schedule (such as an annual work plan capable of being rolled forward over a 5-year period);
- vii. Details of the body or organisation responsible for implementation of the plan;
- viii. Legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer;
- ix. Ongoing monitoring and remedial measures, including how the details of monitoring will be made available to the local planning authority and who will be responsible for implementing and agreeing remedial measures, and specifically including monitoring of the drainage outflows into the stream corridor and pollution incidents for remedial action where necessary;
- x. Timeframe and process for reviewing the plan, including agreeing amendments with the local planning authority; and
- xi. Details of how the aims and objectives of the LEMP will be communicated to the occupiers of the development and any future management body.

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed, and implemented so that the development still delivers the fully functioning

biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

REASON: to secure the long term management of habitats/green spaces for biodiversity and landscape reasons (i.e. formal and informal green spaces) beyond the initial 5-year aftercare maintenance period for the lifetime of the development in accordance with Local Plan policies EH3 and EH4.

26. REMOVAL OF PERMITTED DEVELOPMENT RIGHTS

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order with or without modification), no buildings, structures (including those shared with neighbouring properties), or areas of hardstanding shall be erected, constructed or laid within the rear garden area of the dwellinghouses on Plots 26 to 37 (except where already detailed on the approved plans), as shown on the approved plans, without the prior written permission of the Local Planning Authority.

REASON: To safeguard the character and appearance of the adjoining Ancient Woodland in accordance with Local Plan Policy EH3.

INFORMATIVES

Notes to applicant

1. **IMPORTANT:** the statutory Biodiversity Gain Plan deemed planning condition does NOT apply to this planning permission. The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless a Biodiversity Gain Plan has been submitted to the planning authority, and the planning authority has approved the plan. There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. Based on the information available, this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because the following statutory exemptions or transitional arrangements in the list below is/are considered to apply: the application for planning permission was made before 12 February 2024.

There is a low risk that great crested newts may be present at the application site. Therefore, anyone undertaking this development should be aware that great crested newts and their resting places are protected at all times by The Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended). Planning permission for development does not provide a defence against prosecution under this legislation or substitute the need to obtain a protected species licence if an offence is likely. If a great crested newt is discovered during site preparation, enabling or construction phases, then all works must stop until the advice of a professional/suitably qualified ecologist and Natural England is obtained, including the need for a licence. It may be possible to use the Council's District Licence for great crested newts by joining the scheme via Nature Space and submitting a Non-Material Amendment application to add the required planning conditions (to be confirmed by the local planning authority if this mechanism is required).

All British bat species are protected under The Conservation of Habitats and Species

Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended). This protection extends to individuals of the species and their roost features, whether occupied or not. If a bat is discovered, then all works must stop until the advice of a professional/suitably qualified ecologist and Natural England is obtained, including the need for a licence. A derogation licence from Natural England would be required before any works affecting bats or their roosts are carried out. Where the presence of roosting bats has been confirmed, updated surveys are required if the period of time between the survey and commencement of development extends to more than 12 months. Updated surveys are required to identify any changes to the bat roosting status on site and to ensure sufficient information for the licence application to Natural England.

All British birds (while nesting, building nests and sitting on eggs), their nests and eggs (with certain limited exceptions) are protected by law under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000. Works that will impact upon active birds' nests should be undertaken outside the breeding season to ensure their protection, i.e. works should only be undertaken between August and February, or only after the chicks have fledged from the nest and replacement provision made so that there is no net loss of biodiversity. Guidance on lighting issues in relation to bats and reducing environmental disturbance can be found in the Bat Conservation Trusts Guidance Note 08/23 Bats and artificial lighting in the UK <https://www.bats.org.uk/news/2023/08/bats-and-artificial-lighting-at-night-ilp-guidance-note-update> released.

2. Please note, the Advance Payments Code (APC), Sections 219 -225 of the Highways Act 1980, is in force in the county to ensure financial security from the developer to offset the frontage owners' liability for private street works, typically in the form of a cash deposit or bond. Should a developer wish for a street or estate to remain private, then to secure exemption from the APC procedure, a 'Private Road Agreement' must be entered into with the County Council to protect the interests of prospective frontage owners. For guidance and information on road adoptions etc. please visit our website.
3. A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. Thames Water would expect the developer to demonstrate what measures will be undertaken to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 020 3577 9483 or by emailing trade.effluent@thameswater.co.uk. Application forms should be completed on line via www.thameswater.co.uk. Please refer to the Wholesale; Business customers; Groundwater discharges section.
4. Thames Water have advised that they will aim to provide customers with a minimum pressure of 10m head (approx. 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.
5. Please note, when discharging Condition 4 (Travel Plan), the LPA will expect the applicant to consider the feasibility of using the footbridge by Charlbury Railway Station and provide detail of how this could be used. The LPA would also expect the off-site footpath improvement works (secured under Condition 5 Offsite Highway Works) to consider the feasibility of a chicane being installed in the road leading to the railway bridge, similar to other parts of Charlbury, to

provide more space to make it easier for pedestrians, cyclists, and those with mobility issues, to get to and from the station.

6. When discharging Condition 22 (Means of Enclosure), the applicant is advised that the Council's Biodiversity Officer has confirmed that the rear garden boundaries to all plots facing onto the adjacent ancient woodland site, hedgerows and stream corridor must incorporate a robust means of enclosure, specifically a stone wall (with a fence or hedge on top) rather than a timber fence. This requirement reflects the ecological importance of the adjacent boundary habitats. The 5 metre buffer to the ancient woodland on the western boundary, the 3 metre buffer to the hedgerows on the southwestern and southeastern edges, and the stream corridor must all be protected in the long term. A timber fence is considered insufficient for this purpose, as it would not provide an adequate barrier to prevent encroachment into these sensitive buffer areas. The stone wall is therefore required to safeguard the biodiversity value of the ancient woodland, priority habitats, and wildlife corridors, and to ensure the long-term integrity of the ecological buffer between the development and the adjacent ancient woodland.

Contact Officer: Mike Cassidy

Telephone Number:

Date: 8th April 2026