



# South Northamptonshire Local Area Planning Committee

A meeting of the South Northamptonshire Local Area Planning Committee will be held at The Forum, Moat Lane, Towcester, NN12 6AD on Thursday 11 August 2022 at 2.15 pm

## Agenda

|    |   |
|----|---|
| 1. | <b>Apologies for Absence and Appointment of Substitute Members</b>  |
| 2. | <b>Declarations of Interest</b><br>Members are asked to declare any interest and the nature of that interest which they may have in any of the items under consideration at this meeting. |
| 3. | <b>Minutes</b> (Pages 5 - 8)<br>To confirm the Minutes of the meeting of the Committee held on 9 June 2022.   |
| 4. | <b>Chair's Announcements</b><br>To receive communications from the Chair.   |

| <b>Planning Applications</b> |  |
|------------------------------|--|
| 5.                           | <b>Land North of Blenheim Rise, Kings Sutton</b> (Pages 11 - 50)   |
| 6.                           | <b>Urgent Business</b><br>The Chair to advise whether they have agreed to any items of urgent business being admitted to the agenda. |

Catherine Whitehead  
Proper Officer  
3 August 2022

**South Northamptonshire Local Area Planning Committee Members:**

|                                   |                                       |
|-----------------------------------|---------------------------------------|
| Councillor Stephen Clarke (Chair) | Councillor Ken Pritchard (Vice-Chair) |
| Councillor Anthony S. Bagot-Webb  | Councillor Dermot Bambridge           |
| Councillor William Barter         | Councillor Maggie Clubley             |
| Councillor Karen Cooper           | Councillor Alison Eastwood            |
| Councillor Sue Sharps             |                                       |

## **Information about this Agenda**

### **Apologies for Absence**

Apologies for absence and the appointment of substitute Members should be notified to [democraticservices@westnorthants.gov.uk](mailto:democraticservices@westnorthants.gov.uk) prior to the start of the meeting.

### **Declarations of Interest**

Members are asked to declare interests at item 2 on the agenda or if arriving after the start of the meeting, at the start of the relevant agenda item

### **Local Government and Finance Act 1992 – Budget Setting, Contracts & Supplementary Estimates**

Members are reminded that any member who is two months in arrears with Council Tax must declare that fact and may speak but not vote on any decision which involves budget setting, extending or agreeing contracts or incurring expenditure not provided for in the agreed budget for a given year and could affect calculations on the level of Council Tax.

### **Evacuation Procedure**

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### **Mobile Phones**

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### **Queries Regarding this Agenda**

If you have any queries about this agenda please contact Richard Woods, Democratic Services via the following:

Tel: 01327 322043

Email: [democraticservices@westnorthants.gov.uk](mailto:democraticservices@westnorthants.gov.uk)

Or by writing to:

West Northamptonshire Council  
The Forum  
Moat Lane  
Towcester  
NN12 6AD

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## South Northamptonshire Local Area Planning Committee

Minutes of a meeting of the South Northamptonshire Local Area Planning Committee held at The Forum, Moat Lane, Towcester, NN12 6AD on Thursday 9 June 2022 at 2.15 pm.

|                        |  |
|------------------------|--|
| Present                | Councillor Stephen Clarke (Chair)<br>Councillor Ken Pritchard (Vice-Chair)<br>Councillor Anthony S. Bagot-Webb<br>Councillor Dermot Bambridge<br>Councillor William Barter<br>Councillor Maggie Clubley<br>Councillor Sue Sharps |
| Substitute Members:    | Councillor Rosie Herring (For Councillor Alison Eastwood)  |
| Apologies for Absence: | Councillor Karen Cooper<br>Councillor Alison Eastwood  |
| Officers               | Tracey Hill, Major Projects Manager<br>Tom Ansell, Principal Planning Officer (For Minute Item 5)<br>Surinder Atkar, Planning Solicitor<br>Richard Woods, Democratic Services Officer  |

### 2. **Declarations of Interest**

There were no declarations of interest.

### 3. **Minutes**

The minutes of the meeting of the Committee held on 12 May 2022 were agreed as a correct record and signed by the Chair.

### 4. **Chair's Announcements**

The Chair made the following announcements:

1. That under the Openness of Local Government Bodies Regulations 2014, members of the public were permitted to film, broadcast and report on the meeting, subject to the efficient running of the meeting not being affected.

2. Members of the public were requested not to call out during the Committee's discussions on any item.
3. There were no planned fire drills so in the event of an alarm sounding, evacuation instructions would be given by officers.
4. That it be requested that any devices be switched off or onto silent mode.

5. **Land South of The Wharf, Bugbrooke, NN7 3QB**

The Committee considered application WNS/2021/0450/MAF for the construction of 52 new dwellings with associated open spaces, roads and drainage infrastructure at Land South of The Wharf, Bugbrooke, NN7 3QB.

Alasdair Thorne, the Agent for the Applicant, addressed the Committee in support of the application.

It was proposed by Councillor Ken Pritchard and Seconded by Councillor Dermot Bambridge that the application be refused in accordance with the officer's recommendations. The motion was put to the vote with eight votes cast in favour of the proposal and none cast against, therefore the motion was carried.

In reaching its decision, the Committee considered the officer's report and presentation, the address of the public speaker, and the written update.

**Resolved**

(1) That application WNS/2021/0450/MAF be refused for the following reasons:

1. The application site lies outside the settlement confines of Bugbrooke as designated in the adopted South Northamptonshire Local Plan (Part 2) and is therefore in open countryside. The adopted Development Plan seeks to focus new development within the defined boundaries of settlements unless it complies with certain exceptions, none of which apply to this development. Having considered all relevant material considerations, including the relative sustainability of the settlement, and the site's specific location within the settlement, the provision of affordable housing and outcome of recent appeal decisions, it is concluded that the harm caused through this application's conflict with the development plan exceeds any considerations that weigh in the application's favour. The development proposed would therefore conflict with an up to date and adopted Development Plan, in particular policies S1, R1(f) and R1(g) of the adopted West Northamptonshire Joint Core Strategy 2014 and Policies SS1 and LH1 of the adopted South Northamptonshire Local Plan (Part 2). To permit the development would conflict with Government guidance contained within the National Planning Policy Framework.
2. Policies INF1 and INF2 of the West Northamptonshire Joint Core Strategy 2014 are concerned with infrastructure and developer contributions, and state that 'developers will be expected, in negotiation with the Local Planning

Authority to make provision for related infrastructure and community facilities the need for which arises from the development'. This is consistent with the National Planning Policy Framework. In the absence of a signed legal undertaking the Council cannot be satisfied that the development proposal would make sufficient provision to mitigate the impacts of the development on existing community services and infrastructure serving the development including early years and primary education infrastructure; affordable housing; public open space and facilities (including maintenance); public transport and off site highway improvements; refuse/recycling infrastructure; libraries and primary healthcare infrastructure. The application is therefore contrary to Policies H2, INF1 and INF2 of the West Northamptonshire Joint Core Strategy 2014, Policies LH8 UBF1 and GS1 of the South Northamptonshire Local Plan (Part 2) and the adopted Supplementary Planning Document 'Developer Contributions' (December 2010).

**6. Urgent Business**

There were no items of urgent business.

The meeting closed at 2.48 pm

Chair: \_\_\_\_\_

Date: \_\_\_\_\_

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West Northamptonshire Council  
South Northamptonshire Local Area Planning Committee  
Thursday 11 August 2022

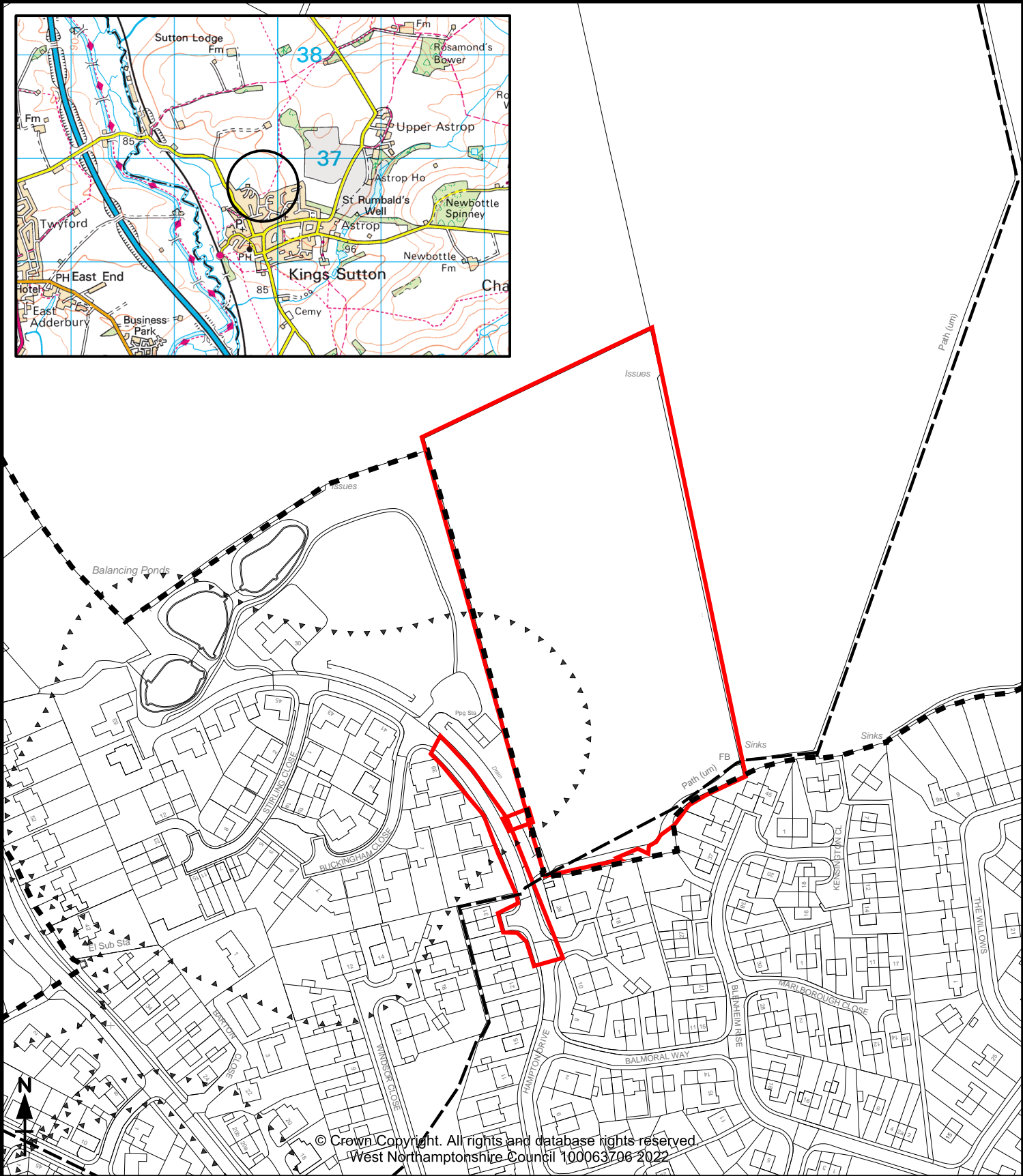
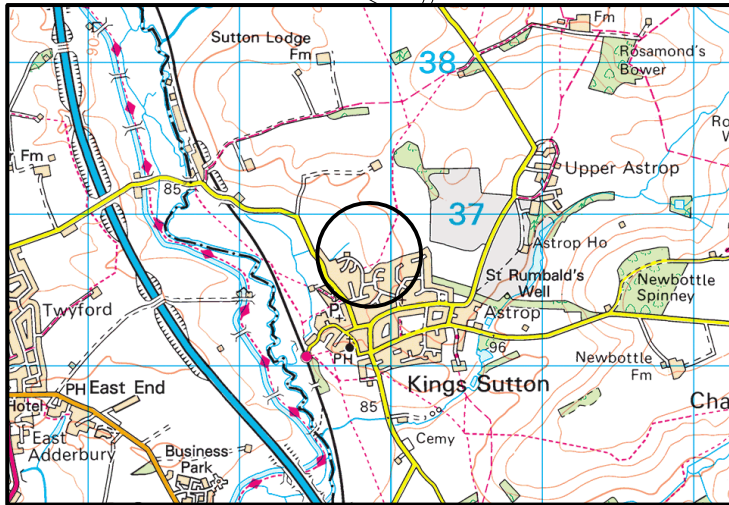
| <b>Agenda Item</b> | <b>Ward</b>      | <b>Application Number</b> | <b>Location</b>                           | <b>Officer Recommendation</b> | <b>Officer</b> |
|--------------------|------------------|---------------------------|---|-------------------------------|----------------|
| <b>5</b>           | Middleton Cheney | WNS/2022/0071/MAO         | Land North of Blenheim Rise, Kings Sutton | Refuse Permission             | Tom Ansell     |

\*Subject to conditions

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**Application Number:** WNS/2022/0071/MAO

**Parish:** Kings Sutton CP



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 West Northamptonshire Council 100063706 2022

Town/Village: Kings Sutton

Site Area: 2.6119 Ha

Grid Location: SP4985836745

Map Scale: 1:2500



**\*Please note, whole map frame is covered by Special Landscape Area**

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**Application Number:** WNS/2022/0071/MAO

**Parish:** Kings Sutton CP



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Map Scale: 1:2500

Date Flown: 'Latest Available'

 Site

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**Application Number:** WNS/2022/0071/MAO

**Location:** Land North of Blenheim Rise, Kings Sutton

**Proposal:** Outline planning permission for residential development of up to 32 no. dwellings with all matters reserved except access. Including affordable housing, together with creation of new areas of open space, a new access off Hampton Drive, landscaping and all enabling and ancillary works.

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**Applicant:** Rectory Homes Ltd

**Agent:** **Rectory Homes Ltd**

**Case Officer:** Tom Ansell

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**Ward:** Middleton Cheney

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**Reason for Referral:** **Major development, contrary to the development plan**

**Committee Date:** 11<sup>th</sup> August 2022

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## **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

**RECOMMENDATION:** REFUSE PERMISSION FOR THE REASONS SET OUT AT THE END OF THE REPORT.

### **Proposal**

The application seeks outline permission, with all matters reserved except for access (off Hampton Drive), for up to 32 dwellings, including affordable housing, open space creation and associated landscaping and all enabling and ancillary works. Access will be taken to the north of an existing field access, in the south-western corner of the site, opposite recently constructed and occupied dwellings within the Hampton Drive estate.

### **Consultations**

Certain consultees – Highways, Strategic Housing etc – have provided further comments to new information following the original consultation period. The information below will, where relevant, reflect those most recent comments.

The following consultees have raised **objections** to the application or have noted/raised concerns without explicitly advising of an objection:

- Planning Policy, Archaeological Officer, Kings Sutton Parish Council, Max Askew Landscape Consultant, Local Highway Authority, Ecology Officer [Greta Crested Newts NatureSpace related concerns in process of being addressed]

The following consultees have raised **no objections (conditionally or otherwise)** to the application:

- Environmental Health/Protection, The Ramblers Association, Thames Water, Strategic Housing, Development Management/Economic Growth and Regeneration [contributions], Lead Local Flood Authority

25 separate third parties have responded to the application, with around sixteen responses received to the Council's reconsultation in May. These comments overwhelmingly object to the application.

### **Conclusion**

The application has been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

The key issues arising from the application details are:

- Principle of development
- Landscape and visual impacts
- Affordable Housing
- Residential amenity
- Archaeology
- Ecology impact
- The impact of the development on highway safety
- Flooding and drainage
- Local Infrastructure and S106 obligations

The report looks into the key planning issues in detail, and Officers conclude that the proposal is unacceptable for the reasons given below.

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.**

### **MAIN REPORT**

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

- 1.1 The application site is 2.4ha of agricultural pasture land to the north-east of Hampton Drive, and north-west of Blenheim Rise. It lies outside of the settlement confines of Kings Sutton, and will be accessed from Hampton Drive.
- 1.2 The site is relatively flat, and is bordered on three sides by mature hedgerows/trees. To the south, residential dwellings off Hampton Drive and Blenheim Rise back onto the site, with open views over the pasture.
- 1.3 To the south of the site runs a public right of way (PROW), known as AS10. It runs west to east across the site from Hampton Drive, eventually heading north-east/northwards into open countryside beyond.
- 1.4 The site lies to the north of the village of Kings Sutton, with the core of the village around 400m to the south (Richmond Street – school, shop), and the railway station around 650m away (as the crow flies) to the south-west. Kings Sutton lies around 1.6km to the east of the larger settlement of Adderbury, and 4km south-east of Banbury. It is 7km west of Brackley.



## **2. CONSTRAINTS**

### 2.1. Notable constraints/features of the site:

- Outside (but adjacent to) the settlement confines of Kings Sutton
- Within an archaeological asset site
- Within a Special Landscape Area
- Medium risk of surface water flooding
- Within 2km of three local wildlife sites
- Public Right of Way AS10 runs west/east to the south of the site

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

- 3.1. The development seeks outline permission with all matters reserved except for access for up to 32 dwellings covering approximately 50% of the total site. This will include estate roads into the site, two attenuation ponds (one on the southern edge and one in the north-western corner), and public open space within the northernmost section of the site.
- 3.2. Detailed plans concerning the access arrangements have been submitted to the Council. Notwithstanding the outstanding concerns/objections raised by the Local Highway Authority, the Council considers the submitted drawings to be sufficient.
- 3.3. The applicant proposes a policy compliant amount of affordable housing (50%) which can be secured via a legal agreement.

## **4. RELEVANT PLANNING HISTORY**

- 4.1. There is no planning history directly relevant to the proposal. The site to the west (Hampton Drive) was permitted at appeal in January 2013, and has since been fully built out and occupied.
- 4.2. The applicant refers to an appeal decision affecting two sites in Middleton Cheney, wherein the Inspector found in favour of market-led housing in the open countryside, despite the Council retaining a five-year housing supply. The appeal decision/reference number for this is APPZ2830W203261483.

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

### **Statutory Duty**

- 5.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

### **Development Plan**

- 5.2. The Development Plan comprises the West Northamptonshire Joint Core Strategy Local Plan (Part 1) which was formally adopted by the Joint Strategic Planning Committee on 15<sup>th</sup> December 2014 and which provides the strategic planning policy framework for the District to 2029, the adopted Local Plan (Part 2) and adopted Neighbourhood Plans. The relevant planning policies of the statutory Development Plan are set out below:

West Northamptonshire Joint Core Strategy Local Plan (Part 1) (LPP1)

5.3. The relevant policies of the LPP1 are:

- SA – Presumption in Favour of Sustainable Development
- S1 – Distribution of Development
- S3 – Scale and Distribution of Housing Development
- S6 – Monitoring and Review
- S10 – Sustainable Development Principles
- H1 – Housing Density and Mix and Type of Dwellings
- H2 – Affordable Housing
- BN7a – Water Supply, Quality and Wastewater Infrastructure
- INF1 – Approach to Infrastructure Delivery
- INF2 – Contributions to Infrastructure Requirements
- R1 – Spatial Strategy for the Rural Areas

#### Local Plan (Part 2) (LPP2)

5.4. The relevant policies of the LPP2 are:

- SS1 – The Development Hierarchy
- SS2 – General Development Principles
- LH1 – Development within town and village confines
- LH8 – Affordable Housing
- LH10 – Housing Mix and Type
- SDP2 – Health Facilities and Well Being
- INF1 – Infrastructure Delivery and Funding
- INF4 – Electric Vehicle Charging Points
- GS1 – Open Space, Sport and Recreation
- HE1 – Significance of Heritage Assets
- HE2 – Scheduled Ancient Monuments and Archaeology
- NE2 – Special Landscape Area
- NE4 – Trees Woodlands and Hedgerows
- NE5 – Biodiversity and Geodiversity
- NE6 – SSS1s and Protected Species

#### **Material Considerations**

5.5. Below is a list of the relevant Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Supplementary Planning Document: Parking Standards and Design
- Developer Contributions
- SNC Design Guide
- Fire Year Housing Land Supply Report 2022

## **6. RESPONSE TO CONSULTATION**

Below is a summary of the consultation responses received at the time of writing this report. The responses listed below are the most recently submitted comments by that respective consultee. Responses are available to view in full on the Council's website, via the online Planning Register.

| <b>Consultee</b> | <b>Position</b> | <b>Comment</b> |
|------------------|-----------------|----------------|
|------------------|-----------------|----------------|

| Name                        |  |   |
|-----------------------------|--|---|
| Lead Local Flood Authority  |  | <p><i>'We consider that if the following planning conditions are included as set out [in the comments], the impacts of surface water drainage will have been adequately addressed at this stage.</i></p> <p><i>Without these conditions, the proposed development on this site may pose an unacceptable risk of flooding.'</i></p>  |
| Ecology Officer             |  | <p><i>'The submitted ecology report identifies the ecological constraints to development of the site and assesses the potential impacts and mitigation requirements based on the baseline ecological conditions. However, there are some limitations with the submissions in respect to Great Crested Newt (GCN), entering the Great Crested Newt District Licensing Scheme has been recommended in the PEA, but a report from NatureSpace detailing that the proposal can be accepted into the scheme has not been provided with the planning application. This is required to be submitted with the application or an alternative approach taken to fully assess the impacts of the proposed development on Great Crested Newts, and detail appropriate mitigation and licensing. This is required prior to determination. This is in line with government guidance ODPM Circular 06/2005 Biodiversity and Geological Conservation – Statutory Obligations and their impact within the planning system (paragraph 99), NPPF and Natural England standing advice in respect to protected species.'</i></p> |
| Local Highway Authority     |  | <p><i>'The LHA...revert to [its] original position of objection to this development proposal as due to the fact that the applicant has not proved that an access suitable for adoption can be installed for the proposed level of development.'</i></p>   |
| Strategic Housing           |  | <p><i>'Regarding the affordable housing tenures, I note that there is now minimal difference between this mix and the preferred mix of the housing team. I am therefore satisfied with this mix and this should be secured in any s106 agreement.</i></p> <p><i>The revised market housing provision seeks to provide a more balanced mix of house types, including some smaller units and this is therefore closer to the requirements set out in policy LH10, although I note the applicant's comments that this mix is indicative at this stage and will be clarified in a Reserved Matters application should this outline permission be granted.'</i></p>  |
| Kings Sutton Parish Council |  | <p>Concerns regarding...</p> <p><u>Principle</u></p> <p><i>'The proposal is located outside our village confines - and is in what is designated as a Special Landscape Area (SLA) (Aynho, Cherwell Valley &amp; Eydon). It marks a continuing urbanisation of what has traditionally been a village community.'</i></p>   |

|                          |                      |   |
|--------------------------|----------------------|---|
|                          |                      | <p><u>Flooding/drainage</u><br/> <i>'The site and its surroundings have a serious history of flood incidents and whilst the Parish Council notes the contents of the developer's Flood Risk Assessment and acknowledges that the developer has no obligation to improve flood risk, it nevertheless has reservations regarding the likely effectiveness of the proposed attenuation scheme.'</i></p> <p><u>Impact on infrastructure</u></p> <ul style="list-style-type: none"> <li>• The village has limited capacity to cope with additional traffic</li> <li>• The pre-school's capacity will be exceeded</li> <li>• The developer's assertion there is a medical practice within the village is incorrect</li> <li>• There is no regular public bus service</li> </ul> <p><u>Construction management</u><br/> <i>'The Parish Council believes that, due to the size of the development and the impact of construction upon the traffic in an already constricted area, the Construction Traffic Management Plan should form part of the planning application and not be addressed as part of a planning condition attached to any permission.'</i></p> <p><u>Financial contributions</u><br/> Without prejudice, the Parish Council considers the following contributions to be important in helping the village with the following specific issues:</p> <ul style="list-style-type: none"> <li>• Improving traffic/road safety situation within the village and on roads leading to and from it</li> <li>• Enhancing bus services to and from the village</li> <li>• Assisting the development of recreation facilities within the village</li> </ul> |
| Environmental Protection |                      | <p>Recommended the following conditions:</p> <ul style="list-style-type: none"> <li>• Noise Impact Assessment – achieving internal and external levels which are appropriate (pre-occupation)</li> <li>• Construction management plan (pre-commencement)</li> <li>• EV charging points</li> <li>• Air and water heating/cooling systems to be installed</li> <li>• Contaminated land (walkover/intrusive/remediation/verification) – pre-commencement / pre-occupation)</li> </ul>  |
| Max Askew [Askew Nelson] | Landscape consultant | <p><i>'In summary, I have concluded there will be residual Moderate Adverse landscape and visual effects in the local context of the site. Unlike the LVIA, I consider these to be</i></p>  |

|  |  |   |
|--|--|---|
|  |  | <p>significant in the determination of this application. The sensitivity of the landscape is high given its Special Landscape Area designation. The proposal will extend the built form north into open countryside and result in some loss of rural openness and harm to the local landscape character. It will also result in some harm to visual amenity for local residents and receptors on public rights of way AS8 and AS10, Hampton Drive and the newly completed public open space associated with this development.'</p>  |
| Development Management NNC – contributions |  | <p>Requested contributions relating to...</p> <ul style="list-style-type: none"> <li>• Early Years' Service (assuming lack of capacity)</li> <li>• Libraries</li> </ul> <p>No contribution relating to primary educational services on the basis of current <u>indicative</u> mix. However, as this mix could change between Outline and Reserved Matters, Officers consider it prudent for the primary education contributions to be included in any subsequent S106 agreement negotiated (i.e. assuming a positive outcome is secured by the applicant at appeal).</p>  |
| Archaeology                                |  | <p>'As noted in the supplied Archaeological Desk Based Assessment (DBA), the proposal site has no prior development history and any subsurface archaeological remains, should they have been present, may be expected survive in good condition.</p> <p>The site therefore has potential for sub-surface archaeological remains of several periods. I would therefore recommend that a phased programme of archaeological evaluation works is undertaken as early as possible, with the potential for further mitigation measured depending on the results of the evaluation phase.</p> <p>A phased programme of evaluation works should involve appropriate non-intrusive methods such as geophysical survey and, depending on results, archaeological trial trench evaluation of the site.</p> <p>This evaluation phase of archaeological works should be undertaken in advance of the determination of the application in order that an informed view on the archaeological potential of the site, and any need for further post-consent works to be secured against full application, may be determined.'</p> |
| Thames Water                               |  | <p><b>No objection</b> on either foul water or surface water drainage solutions proposed</p>  |
| The Ramblers Association                   |  | <p>'The site is accessed from Hampton Drive not Blenheim Drive. A public right of way, a footpath ref no AS10 runs across Hampton Drive and across the southern edge of the site to join AS8 in the</p>   |

|  |  |   |
|--|--|---|
|  |  | <p><i>adjoining land. There is no signing on Hampton Drive to the footpath albeit the new field gates have been erected recently. If a planning permission were to be granted then the route of footpath AS10 should be protected in a reservation across the southern edge of the site.'</i></p> |
|--|--|---|

## 7. RESPONSE TO PUBLICITY

Below is a summary of the third party and neighbour responses received at the time of writing this report.

7.1. 25 different individuals have submitted comments in respect of this application (some multiple times). Fewer than ten responses were received to the Council's most recent consultation process (following the increase in quantum of development from 'up to 31' to 'up to 32' units). The comments overwhelmingly object to the scheme for the following reasons:

- Visual impact / impact of development on setting/appearance of landscape/countryside/Special Landscape Area etc.
- Principle of development – in open countryside
- The Council has a 5-year housing land supply – no justification
- Queries over land ownership, the contents of a Deed of Easement, and whether applicant has sufficient rights to provide access into the site as per the submitted plans
- Flooding/drainage issues arising following the Hampton Drive development, and the risks of the scheme proposed exacerbating these or not addressing/solving this issue – *'The flood alleviation scheme [for the Little Rushes site] failed dramatically on 13th November 2019 resulting in two fire engines being called out to pump water discharging through the foul water drains and threatening to flood properties on the estate. Barwood supplied a rented pump which was positioned adjacent to one of the retention ponds for a number of months until remedial works could be carried out.'*
- Removal of trees/hedgerows with no replacements proposed
- The traffic survey data (TRICS) from October 2020 isn't comparable due to the impact of COVID-19 restrictions (i.e. working from home being more prevalent, reduced shopping visits etc)
- The village has limited services – there is no wine shop (contrary to the transport statement), and the co-op and post office are convenience stores and not suitable for a weekly shop – residents use the supermarkets in Banbury/Brackley for this
- No commercial bus services, and trains do not stop at stations close to supermarkets. There was a commercial bus service when the Hampton Drive development 'Little Rushes' was approved
- There is no doctor's surgery (nearest is in Banbury).
- Harm to amenity of existing residents to the south, invasion of privacy for those backing onto the field
- Light pollution from streetlights

## 8. APPRAISAL

### Principle of Development

8.1. The adopted Development Plan for South Northamptonshire comprises the West Northamptonshire Joint Core Strategy (LPP1) and the Local Plan Part 2 (LPP2).

- 8.2. LPP1 – this Plan was adopted in December 2014. Spatial Objectives 1, 3, 11 and 12 are amongst those that provide direction to the policies of the LPP1. These seek to provide a range of housing in sustainable locations; to reduce the need to travel and promote sustainable travel modes; to ensure all residents have access to a home that they can afford and that meets their needs; and state that housing development will be focused at the most sustainable location of Northampton, supported by Daventry, Towcester and Brackley in their roles as rural service centres. Limited development will take place in the rural areas to provide for local needs and to support local services. Alongside this is the objective to protect and support rural communities to ensure they thrive and remain vital. The LPP1 policies most important for determining the acceptability in principle of development are policies SA, S1, S3, S10 and R1.
- 8.3. LPP2 – this plan was adopted in July 2020 and replaces Saved Policies from the 1997 Local Plan. LPP2 establishes a new settlement hierarchy and settlement confines for the District as well as a range of general development management policies used to determine proposals. Policy SS1 establishes that Kings Sutton is a Primary Service Village, which are settlements likely to be more suitable for limited development than Secondary or Small Villages. The most important policies in LPP2 for determining the acceptability in principle of development are Policies SS1 and LH1.
- 8.4. Housing Land Supply – a Housing Land Availability Study South Northants Area from May 2022 demonstrates that there is a supply of **6.9 years** of deliverable housing sites, and this supersedes the April 2021 study which found there was a supply of 6.32 years of deliverable sites.

#### Assessment

- 8.5. The LPP1 is now over 7 years old. Accordingly, a review of the LPP1 policies was undertaken in accordance with the Town and Country (Local Planning) (England) Regulations 2012 (as amended). This review identified that many of the policies in the LPP1 remain up to date and consistent with the NPPF. It is on that basis that they should continue to be given full weight as part of the development plan for the purposes of decision making. This includes policies S1 and R1 and, importantly, Policy S3 which should continue to be used for the purposes of 5-year housing land supply calculations until such time as the West Northants Strategic Plan is produced.
- 8.6. Policy S1 sets out the general distribution of growth across West Northamptonshire, with development in rural areas being limited with an emphasis on enhancing and maintaining character and vitality, shortening journeys and facilitating access to jobs and services, strengthening rural enterprise and linkages between settlements, and respecting tranquillity.
- 8.7. Policy R1 addresses the specific distribution of rural growth, which is to be informed by settlement hierarchies established in LPP2. In all cases development in the rural areas will be required to provide an appropriate mix, including affordable housing; to not affect open land of particular significance to the form and character of the village; to preserve areas of historic and environmental importance; to protect residents' amenities; to be of an appropriate scale; to promote sustainable development and to be within existing confines unless there are particular or exceptional circumstances. R1 goes on to say that once the requirement for the rural areas has been met development will only be permitted where specific criteria apply, including the retention of a local facility or service (criteria (ii)) where this is supported by an effective community consultation exercise (criteria (iii)).
- 8.8. The proposed development is not considered by Officers to comply with the requirements of Policy R1 in respect of its location outside the village confines. The application is directly in conflict with R1(g) as there are no exceptional circumstances (as set out by

the policy) that would justify development outside the confines in this instance. The development would provide affordable housing and could make appropriate contributions to local infrastructure but is not exceptional in this respect.

- 8.9. In terms of LPP2, such development is also not supported by Policy SS1 for Primary Service Villages and Policy LH1 concerning residential development inside and outside of settlement boundaries. New development should be within the settlement boundary unless otherwise indicated in the Plan. In this instance the site is not otherwise allocated for housing in the Plan and the development would not fall within any of the exception criteria such as; starter homes/discounted market housing; entry level and single plot exception sites; self and custom built homes; specialist housing; residential and nursing care.

#### Material considerations

- 8.10. The Development Plan is considered up to date and therefore full weight can be applied to it. However, Officers consider it prudent to look at material considerations that could influence the Council's position on this submission.
- 8.11. Firstly, it is noted that policy compliant affordable housing provision has been provided (and could be secured via a legal agreement if the Council were mindful to approve). While Strategic Housing have comments about individual plots and how they are designated, they have acknowledged a need for affordable housing units and have no objections in principle. The scheme would deliver 16 affordable units, going some way to meeting the demonstrable demand. Significant positive weight is afforded to this.
- 8.12. Secondly, the settlement of Kings Sutton is a 'Primary Service Village' as established by policy SS1 of the Part 2 Local Plan. A settlement of this designation is recognised as having *'the highest levels of services and facilities'*, meaning that, outside of the rural service centres, they are regarded as being the most sustainable locations within the district to focus new development.
- 8.13. This designation is shared with four other villages, more notably Middleton Cheney, which has recently (April 2021) had two housing developments (totalling around 74 units) approved outside of the settlement confines by a Planning Inspector (appeal references APP/2830/W/20/3261483 (Waters Lane) and APP/2830/W/20/3259839 (Thenford Road)). Importantly, these decisions acknowledged that the Council *did* have an up-to-date housing supply (5.14yrs), but the schemes were granted despite this, due to *'very site-specific context'* of the proposals. The applicant has drawn attention to this quite heavily in their supporting statement, and concludes that the sites/settlements are comparable.
- 8.14. The material considerations, including the benefits of affordable housing as set out in paragraph 8.11, must be considered against the harm caused through the Development Plan conflict to establish whether they justify the Council taking an exceptional approach to the principle of development, notwithstanding this conflict.

#### *Hierarchy Matrix & Public Transport*

- 8.15. Firstly, Officers consider it prudent to consider the sustainability 'scores' as established by the Settlement Hierarchy (SH). This is one part of the settlement comparison that the report will now engage in. The SH and its associated documents form part of the evidence base for the LPP2, adopted in July 2020.



- 8.16. Kings Sutton (KS) scores **66** points on the published SH (the one on the Council's website: <https://www.southnorthants.gov.uk/download/downloads/id/1790/settlement-hierarchy-matrix.pdf>). Middleton Cheney's (MC) score is, by comparison, **81**.
- 8.17. However, there is a background paper dated January 2018 also on the Council's website, (<https://www.southnorthants.gov.uk/download/downloads/id/5677/lp2evgen-1-settlement-hierarchy-topic-paper-jan-2019.pdf>), which changes the Matrix, omitting three possible '2' scores ('Wildlife site', 'Adult learning facility' and 'Permanent library'), and a '5' score 'Bus to urban area'. The paper advises that the proximity of some settlements to Banbury Station will now be factored into revised scores, and it appears that the 'Distance to urban area' scores are revised upwards for those settlements very close to Banbury and other large towns (i.e. Northampton).
- 8.18. The changes to the Matrix cause MC to initially lose 11 points. It then gains four points by its 'Distance to urban area' increasing from '6' to '10', and then a further two points are gained from its relative proximity to Banbury Railway Station. This ultimately results in MC's score being revised downwards from 81 to **76**.
- 8.19. However, KS's score is revised upwards to **74**. This comes from it being awarded four points for 'Local employment', and its score for 'Distance to urban area' increasing from '6' to '10'.
- 8.20. The revisions in the January 2018 document cause KS to be reasonably comparable, numerically at least, with MC in terms of its position on the SH. However, the question of which settlement is more or less suited to absorbing substantial new residential development, particularly on its edge outside of the settlement confines, is more nuanced than simply referring to figures within the Matrix. Therefore, it is important to consider why the scores might be different, and why this is (or is not) significant.
- 8.21. Other than KS having a railway station effectively within, or adjoining, the confines of the village, the main differences between KS and MC is that the latter has a secondary school and a timetabled bus service that provides regular trips to Banbury and Brackley (approximately half-hourly). There is also a social club – a less important facility – within MC.
- 8.22. The question is whether KS can be argued to be directly comparable in sustainability to MC, inasmuch that the Council can justify taking the same approach with this site as the Inspector did in Middleton Cheney (i.e. very site specific circumstances). KS has no secondary school ('Most important'), and no timetabled bus service (no longer directly referred to on the Matrix, but arguably still important), but the railway station and employment opportunities would suggest it has, on face value, significant advantages over MC.
- 8.23. Noting the need for residents to rely on either dedicated school buses or private motor vehicles to take children to secondary school, Officers remain unconvinced that the railway station and local employment opportunities alone allow KS to be regarded, in the round, as comparably sustainable to MC.
- 8.24. Firstly, the absence of a timetabled bus service to *complement* the railway station (as a generally cheaper form of public transport providing routes to settlements not served by the railway line), is considered to be an important factor in this conclusion, notwithstanding its omission from the Matrix scoring system. Officers acknowledge that the station does provide *useably* frequent connections to larger urban centres. However, it does not provide level access to all platforms; anyone arriving on a north-bound train, or wishing to travel north from KS, must cross a bridge to reach the required platform. There is no track crossing, controlled or otherwise, or lift facilities.

- 8.25. Those with very young families (i.e. pushchairs) and particularly those with mobility issues will find it difficult or impossible to make full use of this public transport facility. When the site's distance from the station is factored in, and combined with the absence of timetabled bus services which would likely better meet the more specific requirements of these users, it is difficult to see how the proposal will avoid resulting in an increase in private motor vehicle journeys.
- 8.26. By comparison, MC is well served by regular public transport infrastructure to higher order settlements including Banbury and Brackley. This provides options for both commuter and leisure trips. Banbury town centre and railway station can be reached within a circa 15 min cycle ride and a circa 18-minute bus journey – the railway station is, by comparison, a 15m walk from the site in KS.
- 8.27. As such, Officers do not consider KS's railway station to adequately compensate for the absence of a timetabled bus service, which would provide more frequent, and affordable, trips to local settlements and employment opportunities that are not served or easily reachable by the railway.
- 8.28. Looking at employment opportunities, KS scores 4 points, whereas Middleton Cheney scores 0. The document 'Settlement Hierarchy in South Northamptonshire' (<https://www.southnorthants.gov.uk/download/downloads/id/2851/south-northamptonshire-settlement-hierarchy.pdf>) provides some clarity on what criteria needs to be met for a settlement to score in respect of its 'Local employment' provision. It advises that '*scoring of this indicator is based upon whether employment premises exist within [sic] 2km of a settlement and includes 11 or more business units*'.
- 8.29. Around 1km to the north-west of KS is the Cherwell Valley Silos business/commercial park. This appears to contain more than 11 units occupied by fewer than 10 *individual* enterprises. As such, it is regarded as the nearby employment site that likely provided KS with its score.
- 8.30. Cherwell Valley Silos is accessible from the village along a two-laned country road (Banbury Lane), which is unlit, with no pavements. It could reasonably provide employment opportunities to those in KS, and it is acknowledged that cycling is a reasonable proposition given the reasonably short distance, particularly during the lighter warmer months. However, it is not located in a particularly sustainable location relative to the settlement, and it is submitted that those living in KS and employed by one of the units would be much more likely to travel there by private vehicle.
- 8.31. Middleton Cheney does not benefit from any employment opportunities within its settlement boundaries. On average, MC is around 3.5km from the eastern edge of Banbury, where there are substantial commercial parks/industrial estates (i.e. Wildmere Industrial Estate) containing significantly more units (and opportunities) than Cherwell Valley Silos. There are half-hourly bus services from MC to Banbury, with stops for the relevant bus positioned close to the businesses. MC also has bus links to Brackley, where there are further employment opportunities in the commercial zones on the outskirts of town.
- 8.32. While KS is closer to a source of potential employment, and as such scores the points in the Settlement Hierarchy, the commercial premises are in a relatively unsustainable location with no public transport links, whereas those living in MC are slightly further away from a greater choice of employment opportunities accessible by regular public transport.

- 8.33. As such, it is not reasonable to conclude that KS is a more sustainable location to site new residential development in respect of 'Local employment'. Even acknowledging the ability of KS residents to walk to the railway station and catch a train into Banbury, and then walk to employment opportunities within that larger settlement, Officers consider MC's residents to be comparably served, rather than at an outright disadvantage. Not only are there more options available within a *relatively* short distance (i.e. 10-20 minute bus ride), the ability to catch regular (and more affordable) public transport to make use of local employment opportunities is a key factor.
- 8.34. The above facts are not picked up by the Matrix or SH, and this exercise demonstrates the risks of relying solely on the SH scores to determine whether one settlement is more or less sustainable than another. It should be indisputable that, when the situation 'on the ground' is examined in more detail, the advantages KS supposedly has in terms of 'points scored' over MC in respect of its services and opportunities are much less likely to meter out to real world advantages for its residents.

#### *Comparisons to Middleton Cheney appeal sites*

- 8.35. Officers will now look at other comparative sustainability factors of the settlements of Middleton Cheney and Kings Sutton, noting the Matrix, but providing a more site-specific analysis. This is consistent with the Inspector for the Middleton Cheney sites; in their concluding statements for the Middleton Cheney appeals referenced in paragraph 8.12 the Inspector was very clear that the decisions were made *'having regard to the very site-specific factors relating to this appeal'*. Therefore, the fact that Middleton Cheney and Kings Sutton are both Primary Service Villages (PSVs) as designated in the LPP2 does not, by itself, carry significant weight in favour of the scheme before Members today.
- 8.36. In Paragraph 93 of the Waters Lane appeal, the Inspector notes that Middleton Cheney is the *'largest PSV in terms of number of householders and second largest by population'*. The Inspector lists a wide range of services and facilities that Middleton Cheney benefits from, including schools, shops, car servicing/repairs, a filling station, a library, a church and more than one public house. Its proximity to Banbury and Brackley (as higher order settlements) was also noted, along with public transport opportunities. The Inspector found that the village of Middleton Cheney was accessible, with no material conflict with policy C2 of the Joint Core Strategy (which seeks to maximise travel choice from non-car modes in new development).
- 8.37. Kings Sutton is not as large as Middleton Cheney either in area covered or population. It also has a more limited range of facilities and services, with a primary school, one shop and one post office, a takeaway and two public houses. There is a large rectangular park/recreational ground, and a car repair/servicing workshop. As established earlier in the report, it also has a railway station that provides links to Oxford/London and Banbury/Birmingham.
- 8.38. The two Middleton Cheney sites are located on the eastern side of the village, but relate closely to the existing built form and infrastructure (i.e. roads and footpaths). Main Road, the two-laned highway that runs through the built-up centre of the village from the A422 and which provides easy pedestrian access to most of the facilities (and along which a footpath of usable quality runs most, if not all, of its length) is only 100m or less from the edges of the two developments. Middleton Cheney's facilities are somewhat concentrated on the western side of the village, although reaching these can be achieved via a number of different routes on foot through existing housing estates. Those travelling on foot do not have to necessarily follow the Main Road if they would prefer not to.

- 8.39. The Kings Sutton site is located on the northern edge of the settlement, on the edges of suburban development both recent and post-war. It is reasonably close in walking distance to the convenience store and primary school, and a little further from the post office. Given that Kings Sutton is smaller, it is expected for its services to be close by, although it has fewer of them compared to Middleton Cheney. The railway station is a 900m/15 minute or so walk away.
- 8.40. Looking at both villages' relative position to higher order settlements now, Kings Sutton is around 6.5km away from the large shopping facilities (as an example) in the centre of Banbury (Sainsbury). By public transport (walking/train from the station), this would take around 45 minutes. Brackley is around 11km away by road, and at time of writing around 1hr 40m away by public transport (which would involve a train into Banbury to catch a bus).
- 8.41. The highway infrastructure around Kings Sutton is mostly two-laned country roads with a 60mph limit (unless in built up locations), which are unlit with limited or no footpath provision until much closer to the higher order settlement of Banbury. While the highway network is well established, the initial highways are of a lower status ('Banbury Lane' and 'Twyford Road' being the main highways between Kings Sutton and the A4620 into Banbury).
- 8.42. Middleton Cheney is approximately 5km east of Banbury and its employment opportunities and larger scale shopping facilities. Banbury is accessed along a dual carriageway (the A422) which crosses the M40 (junction 11). The village is around 6.5km from Banbury Railway Station, which can be reached using public transport (bus) in 25 minutes.
- 8.43. Those opting to visit Brackley from Middleton Cheney can use the A422 heading due south-east, which is a two-laned road of good quality, although with no footpaths. It does, however, pass through Farthinghoe, a smaller village.
- 8.44. Notwithstanding this, the sites at Waters Lane and Thenford Road both benefit from a close relationship to Banbury which can be reached via a superior highway network that facilitates faster and easier accessibility to employment and larger scale shopping opportunities. Banbury's railway station can be feasibly accessed via public transport directly from Middleton Cheney in a time not too greater than the walking distance from the site to Kings Sutton's railway station, although the latter's station can be reached much easier by cyclists than Banbury's station from Middleton Cheney.
- 8.45. Kings Sutton does undeniably benefit from useful facilities and services, and Officers stress that the purpose of this appraisal is not to argue that it is an *unsustainable* location in the broader sense. However, the conclusion from the above assessment of each settlement is that, while they are both PSVs as identified in policy SS1 of the LPP2, and notwithstanding the scores on the Matrix, Middleton Cheney is arguably the more sustainable of the two. This is because it benefits from more facilities and services than Kings Sutton, benefits from a timetabled bus service and better connections (by highway) into Banbury.
- 8.46. As such, the sites in MC appraised by the Planning Inspector are materially better suited to taking advantage of what makes Middleton Cheney sustainable due to their relationships with the facilities and services within that settlement, the proximity of the village to higher order settlements and the highway infrastructure that exists between them.
- 8.47. Instead, it is submitted that due to this particular site's poorer (overall) public transport services - no timetabled bus services providing more flexible and cheaper options and

the inaccessibility of the northbound platform to those with mobility issues - and the distance from higher order settlements combined with lower grade highway infrastructure, and the absence of a secondary school, it is not appropriate to draw parallels between this scheme and the Middleton Cheney appeals.

- 8.48. As such, the '*very site-specific factors*' that caused the appeals to succeed in Middleton Cheney should not be afforded significant weight as part of the decision-making process for this application in Kings Sutton.

*Greens Norton appeal decision*

- 8.49. Officers have had sight of an appeal decision (APP/Z2830/W/21/3267906) which was recently issued, dismissing an appeal against a resolution to refuse permission for up to 69 dwellings outside the settlement confines of Greens Norton, a third category Secondary Village (A). This settlement scores lower than either Kings Sutton or Middleton Cheney in respect of the Matrix referred to earlier (69).
- 8.50. Of interest within the Inspector's decision is the heavy focus on the adverse impact of permitting development that would result in future residents '*relying on the private motor car to access regular requirements such as education, shops and employment*'. This statement (paragraph 19) was made in respect of the absence of suitable walking and cycling routes to higher order settlements, and in this regard, Officers concede that neither Middleton Cheney nor Kings Sutton score highly in this regard either.
- 8.51. The two settlements being compared in this report are admittedly better equipped with services and facilities in the first place. Larger shops – supermarkets – and larger scale places of employment, however, are comparably (if not more poorly) located relative to Greens Norton, which is only 3km from Towcester.
- 8.52. Taking walking and cycling out of the equation, but considering instead public transport, which Officers consider to be equally important in terms of reducing the reliance on private motor vehicles, Kings Sutton's railway station should not be regarded as a 'magic bullet' which fully compensates for the absence of a timetabled bus service. While relatively frequent services to higher order settlements are achievable from the railway station, for the reasons set out above the overall public transport provision falls behind Middleton Cheney, which has frequent timetabled services to Banbury and Brackley, providing relatively quick and easy ways for non-car users (or those opting to use public transport) to reach places of employment/shops etc.

*Greens Norton appeal decision – housing supply*

- 8.53. In correspondence with the Council, the applicant has referred to the Inspector's conclusions in the Greens Norton appeal decision in respect of the Council's five-year housing supply.
- 8.54. An interpretation of the decision is that the Council's housing land supply (HLS) position is 'notable deficient', being between 2.31yrs and 3.11yrs under the administrative area approach [Officers emphasis]. The implication of this is that the tilted balance is engaged, and if so, this scheme, when all matters are considered, could be argued to represent sustainable development.
- 8.55. The Council has recently (i.e. post Unitary) successfully defended appeals wherein there were challenges on its housing land supply.
- 8.56. In the case of APP/Z2830/W/21/3269904 (Land east of Lower Road, Milton Malsor, decided 21<sup>st</sup> September 2021), the Inspector did not afford weight to, or even seemingly

consider, whether the housing supply as calculated using an administrative area approach should be factored into the decision-making process. They concluded that the **south area** of *West Northamptonshire Council* had a supply of 5.65yrs.

- 8.57. In the case of APP/Z2830/W/21/3270614 (Land off Northampton Road, Blisworth, dated 23<sup>rd</sup> November 2021), the Inspector acknowledged that the application was determined by South Northants Council, and that West Northamptonshire Council became operational from 1<sup>st</sup> April 2021. The Inspector advised, in paragraph 3, that *'...The former Council adopted the Part 2 Local Plan (LPP2) in 2020. This sets out a series of development management policies but does not include housing allocations. Policy references in this decision are from this adopted plan as well as the joint core strategy.'* This Inspector concluded that the south area had a supply of 5.5yrs.
- 8.58. In the decision for the Blisworth appeal, the Inspector touched upon the appropriateness of the 'administrative area approach'. At paragraph 12, the Inspector notes; *'The parties disagree on whether the proposed growth identified for the sites within the WNJCS should be included in the District's housing requirements. The appellant considers that as Policy S3 of the WNJCS identifies that the scale and distribution of housing includes sites within the SUEs (3,850 new dwellings) within the former district, then the overall requirement is a total of 11,020 dwellings.'*
- 8.59. Paragraph 20: *'In suggesting that administrative areas should be the basis for measuring housing requirements, the appellant does not fully address the Council's case that as a matter of locally determined policy the plan led area is the basis of its adopted strategy. This approach is consistent with the plan led system requiring co-operation between planning authorities. It provides the basis on which the new authority can complete its detailed review of housing requirement.'*
- 8.60. Paragraph 24: *'Whilst there will always be a tension between the measurement of supply against a 'plan area' in contrast to 'administrative areas' the Council's spatial strategy is predicated on the former and is consistent with the WNJCS. This is also consistent with Paragraph 22 of the recently adopted Framework.'*
- 8.61. Notwithstanding the above, the Council's interpretation of the Greens Norton appeal is that the Inspector does not conclude which approach is the right one to take (i.e., administrative area approach or local area approach). Instead, the figures for the administrative area are provided (as given by the Council at the time and the appellant), and the Inspector concludes that *'even if I were to conclude there is a shortfall in the 5-year HLS on the scale suggested by the appellant, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole'*.
- 8.62. This is very revealing; there is no definite conclusion, and the Inspector appears to simply be making the point that even in the very worst-case scenario, the absence of a 5-year HLS would not counterbalance the adverse impacts the development would cause.
- 8.63. Consequently, the Council's position is that the Development Plan is up to date and should be afforded full weight. The tilted balance should not be engaged. Furthermore, the Council has performed a Five-Year Housing Land Supply Assessment for April 2022. This concludes that the supply of housing is **6.9 years**. This has been calculated in a way which has been consistently supported by previous Inspectors (both pre and post Unitary), and on a local area approach rather than an administrative area approach (again, consistent with the conclusions of an Inspector).
- 8.64. Consequently, the conclusions reached by the Inspector in respect of the Council's HLS position in the Greens Norton appeal are afforded very little weight.

### *Affordable housing*

8.65. Turning to another factor that appeared to heavily influence the outcome of the Middleton Cheney appeals, the delivery of affordable housing was afforded significant weight by the Inspector. The following paragraph summarises the Inspector's position:

*'On a District wide basis there has been a substantial under provision of affordable housing, with some households having to wait over a year for a home. These are households in need now and thus the provision of 27 affordable homes in an accessible location is a consideration that attracts significant weight in this case. Both parties agree therefore that the affordable housing provision secured should be given significant weight in this case.'*

8.66. Officers do not have any figures before them to demonstrate whether the under provision of affordable housing has been measurably addressed since the preparation of the Middleton Cheney appeal hearing and decision. Given the relatively short period of time that has elapsed between the two, it is highly unlikely that the shortfall has been significantly addressed. Consequently, it might be argued that this scheme would also address an immediate need and as such similar importance should be given to securing the delivery of 50% affordable houses as part of the proposed scheme.

8.67. While Officers agree that affordable housing provision should be afforded weight, it is questioned whether the same 'significant' weight should be applied.

8.68. Firstly, as discussed in the paragraphs above, the accessibility of the site relative to the two sites in Middleton Cheney in respect of the provision of services within the village, proximity to higher order settlements etc, is inferior, notwithstanding the designation 'Primary Service Village'. While the settlement is not unsustainable, the location is not as accessible or sustainable, *relatively speaking*, and as such less weight (albeit by a small degree) should be given to the securing of affordable housing in this location.

8.69. Secondly, and arguably of more importance, is the cumulative impact of permitting market-led schemes outside of the settlement confines; specifically, the harm that such an approach would have in the long term on the adopted spatial strategy. There is a tangible risk that supporting a market-led housing development outside of the settlement confines (in the event that there are no other conflicts with the development plan) *and* the Council secures some affordable housing, will serve in the long term to severely undermine the spatial strategy and plan-led approach of focussing development in accordance with the adopted settlement hierarchy.

8.70. The plan-led approach has been recognised and was addressed (to an extent) by the inspector determining the Middleton Cheney appeals, who stressed that it was only because of very site-specific factors (i.e. the size and sustainability of the village and the relationship of the sites to the village) that, together with the provision of demonstrably needed affordable housing, meant that the schemes before them were felt to be acceptable.

8.71. As set out earlier, two recent appeal decisions in Milton Malsor and Blisworth (APP/Z2830/W/21/3269904 – Lower Road Milton Malsor and APP/Z2830/W/21/3270614 – Land off Northampton Road Blisworth) sought to challenge the Council's housing land supply, and in both cases failed. The Development Plan has therefore very recently been robustly tested and confirmed as being up to date. The Council is therefore correct to determine proposals for housing in accordance with the Development Plan as required by the NPPF.

- 8.72. In that context, despite the material considerations weighing in its favour (i.e. the relative sustainability of the settlement, the provision of affordable housing), the harm caused through the conflict with the development plan must be afforded significant weight.
- 8.73. A further concern is that in referring to the delivery of 50% affordable housing as a reason to support a market-led scheme that is *contrary* to the development plan wholly undermines the existence of policies within the plan that are intended to specifically encourage the delivery of affordable housing. For example, the Council recognises that there are opportunities for exception sites (i.e. 100% affordable housing) to be brought forwards on sites that are not necessarily within the settlement confines, but directly adjacent to them. While these sites tend to be smaller in scale, there is nothing to suggest the site before the Council today couldn't potentially deliver a *policy compliant* scheme of purely affordable housing units, or First Homes (or both), more comprehensively addressing the short fall of affordable housing within the district. However, it is very hard to imagine such a scheme ever being proposed if permission were granted for a market-led scheme.
- 8.74. While Officers accept that there is never a guarantee of any such schemes being brought forwards for delivery, an approach to development which effectively undermines the adopted spatial strategy, particularly in the long term, will only make it less likely to happen.
- 8.75. Therefore, in addition to generally undermining the adopted spatial strategy, which has very recently been confirmed to remain up to date, by affording such weight to a market-led scheme's delivery of affordable housing that it forms a basis for supporting the scheme, the Council risks more severely undermining adopted policies within that plan that are attempting to meet that need in a policy compliant fashion.

#### *Conclusion*

- 8.76. The Council can demonstrate a five-year housing land supply and as such all relevant Development Plan policies are considered up to date and paragraph 11(d) of the NPPF does not apply. The proposed development does not comply with policy R1 of the LPP1 or policies SS1 and LH1 of LPP2 and is therefore considered to be unacceptable in principle unless there are material considerations that outweigh these policies. The material considerations applicable to this scheme have been identified and appraised above.
- 8.77. A detailed summary and final conclusion will be provided in the Planning Balance and Conclusion section.

#### Landscape and visual impacts

##### *Legislative and policy context*

- 8.78. Looking at policies that affect general visual impacts on the existing landscape, LPP1 Policy R1 requires development to not affect open land which is of particular significance to the form and character of the village; to preserve and enhance areas of historic or environmental importance including those identified in Village Design Statements and to be of an appropriate scale to the settlement. Policy S1 (criteria D) requires development in the rural areas to be limited, with the emphasis on respecting the quality of tranquillity and enhancing and maintaining the distinctive character of rural communities.
- 8.79. Policy SS2 of LPP2 requires development to maintain the individual identity of villages and to not result in the unacceptable loss of undeveloped land, open spaces and locally



important views of particular significance to the form and character of a settlement and to integrate with its surroundings and the character of the area.

*Assessment – LVIA conclusions & Landscape Consultant appraisal*

- 8.80. The application is accompanied by a Landscape Visual Appraisal which concludes that the site has a medium landscape sensitivity, and that developing the site would *'not give rise to any significant long term adverse effects upon the key characteristics of the Northamptonshire Uplands (NCA 95) or LCA landscapes'*. In the appendix of the LVIA, paragraph 1.9 notes that *'paragraph 5.56 of GLVIA3 states that there are no 'hard and fast' rules about what makes a significant effect'*, and that for the purposes of the assessment within the LVIA, *'significant landscape or visual effects are those effects considered to be greater than moderate'*.
- 8.81. This has been picked up by the Council's Landscape Consultant (LC), who disagrees with this approach (para 1.8): *'In my experience of landscape and visual assessment, moderate effects are considered significant.'* The LC goes on to submit (in the same paragraph) that even *'an accumulation of minor effects may be considered significant'*, and that a binary approach to the assessment of significance should not be taken; effects should be considered on a sliding scale.
- 8.82. The LC also identifies that the photographs used in the LVIA were taken in early summer, with trees in leaf, and at the time of their visit in March, the site was *'considerably more open and visible in the wider landscape than the LVIA suggests'* (para 1.9). The LC identified that many of the ash trees were suffering from Ash Dieback and suggested that the site could become more open in the wider landscape in the not-too-distant future.
- 8.83. In paragraph 1.18 the LC agrees with the LVIA's conclusions on landscape sensitivity inasmuch that they consider the southern part of the site to be 'Medium' but takes the view that this sensitivity becomes 'High' to the north of the site where the rural character becomes stronger and the urban character less influential.
- 8.84. Looking at the impact on the Special Landscape Area (SLA) 6, paragraph 1.26 advises:  
*'The impact on the whole of Special Landscape Area 6 is likely to be negligible or minor in the context of the entire SLA. However the impact on the site itself and the local landscape context is likely to be more significant – as the LVIA states - where the existing landscape character, views and visual amenity will be affected. The proposal extends the built form of Kings Sutton north and will transform a locally characteristic arable field which contributes to the character of the wider open rural landscape.'*
- 8.85. The LC considers the potential landscape effect to be more harmful than that suggested by the LVIA in respect of the local context surrounding the application site. They afford weight to the SLA status and high sensitivity of this designation, and are of the view that the landscape character to the immediate west, north and east of the site would be significantly harmed (para. 1.28); Major or Moderate Adverse at Year 1 and Moderate Adverse at Year 10.
- 8.86. The LC submits that the scheme would *'extend the built form of Kings Sutton north and uphill beyond the existing village confines into a high-quality rural landscape which displays many of the defining characteristics of the local landscape'*. They offer the view that the scheme will inevitably result *'in a loss of tranquillity and a change in character for the site and its immediate context'*.

- 8.87. Notwithstanding the LC's differing position on immediate impacts being more severe/harmful than as suggested by the LVIA, one of the key differences between the LC's position and LVIA's position is that the 'Moderate Adverse' effects should be considered significant in the determination of the application. In that context, the conclusions of the LVIA are that the long-term impact of the development on the site will be significant, and as such result in harm – locally quite severe, and in the wider context less so, although with potential for this to increase if Ash trees are lost to disease.
- 8.88. The applicant's landscape consultants Aspect Landscape Planning (ALP) responded to the LC's comments on 14<sup>th</sup> April. This advised the Council that ALP's methodology has been examined at numerous inquiries and hearings and has found to be appropriate and in accordance with the GLVIA3 on each occasion (paragraph 2.1, 'Response to LVIA review').
- 8.89. ALP go on to argue that setting the 'significant' threshold at 'Moderate' is *'unusual and out of step with accepted practice'* (para. 2.2) given that GLVIA3 does not define a threshold point beyond which significant effects are established. It concludes that ALP stands by its assessment that the proposals are *'supportable in both landscape and visual terms'* and that the assessment of effects as set out in the LVIA *'has been based primarily on professional judgement in weighing up the landscape evidence put forward'*.
- 8.90. Officers provided the LC an opportunity to respond to this. The LC continued to disagree with the 'binary' approach adopted by ALP, advising that, in their experience of planning decision and appeals, *'moderate adverse effects carry weight, and so are significant in the decision-making process'*. The LC referred to an appeal decision within the Council's area (Rothersthorpe – APP/Z2830/W/18/3206346), wherein a moderate adverse landscape and visual effect carried weight in the Inspector's decision.
- 8.91. *Assessment – Officer appraisal*
- 8.92. Officers visited the site in January 2022 and noted, like the Landscape Consultant (LC), that the site appeared much more open than in the photographs within the LVIA, particularly on its northern boundary. Views are easily attainable from Hampton Drive and its associated public open space both provided as part of the recent residential development to the west of the site. Views from the footpath along the southern edge of the site will be severely impacted, given the significant change of character the development would cause.
- 8.93. Officers acknowledge the LVIA's submission that the closer links to existing built form along the southern edge would allow the site to accommodate a sensitively designed residential development *'that respects [the site's] transitional role between the village edge and wider countryside'* (para 3.33). Officers consider the site to have more significance than that, taking note of properties in Blenheim Rise backing onto the site, and particularly since the completion of the development to the west 'Little Rushes'.
- 8.94. The gardens belonging to properties within Blenheim Rise provide a strongly defined northern boundary to the built form within the more established suburbs of the village. An abrupt cessation of built form and more immediate transition into open countryside is typified on the outer edges of larger, more urban settlements within the Council's area
- 8.95. Furthermore, the open space within the north-eastern portion of the adjacent Little Rushes site has been strategically positioned such that the residential units that form part of that development, which was allowed at appeal during a time when the Council had insufficient housing land supply, relates closely and logically to the built form along Banbury Lane, Barton Close and Windsor Close to the west and south. The open space

integrated into the site, and the gradual westerly trajectory of the primary road, are clearly intended to provide the transition from this site into the open countryside, which begins, in the view of Officers, with the site chosen for this development.

- 8.96. The indicative drawing, which is more of a parameter's plan, shows residential built form positioned strategically away from the boundaries of properties in Blenheim Rise, and a generous amount of open space to the north of the site, ensuring built form does not encroach any further northward than that in the Little Rushes site to the west. It is clear that such positioning is necessary if amenity impacts on neighbours in Blenheim Rise (which have elevated and relatively open rear gardens) are to be avoided, and to avoid visual encroachment of built form beyond the existing limits established by Little Rushes. The site also requires two attenuation basins to address potential flood risk/drainage issues that are well-established through the comments submitted by the Parish Council and local residents; one of these is required at the southern end of the site, further pushing the built form northwards into the site.
- 8.97. Officers are of the view that this will not result in a development that sits cohesively and comfortably within the landscape; instead, it will sit incongruously within the existing pasture, visually and physically disconnected from established dwellings in Blenheim Rise and, by virtue of the open space and trajectory of Hampton Drive, from the new dwellings in Little Rushes. With open fields to the north and east, the development will 'float' disjointedly in an area characterised by its agrarian qualities with no clear relationship to the existing built form within the village.

### *Conclusion*

- 8.98. Officers see no reason to disagree with the position taken by the Council's LC, inasmuch that the scheme, at a broader level, will change the character of the site and its immediate context. Officers are of the view that these impacts will ultimately be to the detriment of the immediate and wider character and context of the site. A 'Moderate' long-term impact is certainly considered to be significant in the decision-making process in this context, particularly noting the necessary location of built form within the intended site to provide attenuation basins and prevent amenity conflicts, and the further harm this is considered to cause in visual terms.
- 8.99. The site, and particularly the built form within the scheme will not relate well to the existing established residential suburbs on the northern edge of Kings Sutton nor the recently completed 'Little Rushes' development to the west. It results in an incongruous, intrusive and disconnected collection of dwellings in an open-countryside location, causing harm to the appearance, character and setting of the settlement, and disrupting the tranquillity of the agrarian landscape in this location.
- 8.100. As such, it conflicts with policies R1 and S1 of the LPP1 and SS2(1.a and 1.b.) of the LPP2, and should be refused for landscape and visual impact reasons as well as its conflict in principle.

### Affordable Housing

#### *Policy Context*

- 8.101. The Council's affordable housing requirements as set out in the JCS 2014 amount to 3,300 homes between 2011-2029; or 183 units per annum excluding the NRDA.

8.102. Policy H2 of the JCS 2014 establishes the requirements for the on-site delivery of affordable housing. In the rural areas of South Northamptonshire 50% affordable housing is required to be delivered. This requirement is repeated in Policy LH8 of the Part 2 LP.

8.103. Policy LH10 of the Part 2 LP sets accessibility standards.

#### *Assessment*

8.104. The applicant proposes 50% of the proposed dwellings to be delivered on site as affordable housing in accordance with the development plan, amounting to circa 16 units.

8.105. Since 2011 the Council has delivered fewer affordable homes throughout the district than the SHMA and JCS 2014 require. Overall, this amounts to 621 fewer homes. It is however important to view the shortfall in context and acknowledge that the difference between target delivery and actual delivery may not necessarily reflect the current need for affordable housing.

8.106. Kings Sutton's housing requirements have been summarised by the Strategic Housing officer:

*'There has not been a parish level Housing Needs Survey in the last 5 years and therefore I have looked at the council's housing register to give an indication of affordable housing need from applicants approaching the council for re-housing. On 11 February 2022 there were 33 households on the register who have indicated that they would be willing to be housed in Kings Sutton. Their bedroom needs are as follows:*

- *1 bed = 14 households (including 3 households requiring sheltered accommodation)*
- *2 bed = 11 households (including 4 households requiring sheltered accommodation)*
- *3 bed = 4 households*
- *4 bed = 4 households*

*Though there are 33 households willing to live in Kings Sutton on the housing register, this should not be taken as the total affordable housing need in the parish. Many of those on the register identify multiple parishes they would be happy to live in and may therefore be housed elsewhere. It does though indicate there is likely to be sufficient demand for affordable housing to occupy the proposed affordable homes.*

*The register held by the Homebuy agent (Help to Buy Midlands and London) shows strong demand for shared ownership housing in the South Northamptonshire area, although this does not record demand for individual parishes.'*

8.107. The Strategic Housing Officer has also provided a preferred housing mix on a 32-unit scheme (following the receipt of revised information)

- 1-bed flat: 3 x rent and 1 x intermediate tenures
- 2-bed bungalow: 2 x market
- 2-bed house: 4 x rent, and 4 x First Homes
- 3-bed house: 6 x market 1 x rent, and 3 x intermediate tenures

- 4-bed house: 4 x market

(16 affordable units provided)

### *Conclusion*

8.108. Having regard to the above, the proposed development will undoubtedly make positive steps towards meeting both a district-wide need and a locally identified affordable housing need/demand and the proposals comply with the relevant development plan policies in this respect. On this basis the council's Strategic Housing Team could support the application. This carries significant weight in favour of the proposals.

8.109. The accessibility standards set out in Policy LH10 can be secured through conditions and/or a S106 Agreement.

8.110. However, the conflict with the Development Plan and the visual and landscape impact harm caused as identified earlier in this report are not considered to be outweighed by the benefits of securing 16 affordable units on this site. As such, even with the significant weight in favour by virtue of the affordable units, the Council cannot support the scheme.

### Residential amenity

8.111. The exact layout, design and appearance of the dwellings (including where openings will be positioned) will be determined at a later date. Nonetheless, it is prudent for Officers to consider whether providing any form of development within the development block areas as established by the parameters plan is likely to result in harm to the amenities of those neighbouring the site.

8.112. Officers do note the concerns raised by residents in Blenheim Rise, who have residential gardens that directly face towards the site. The minimum distance between the rear boundaries of these properties and the intended development blocks within the site is 35m. This increases for properties that face onto the eastern side of the site, as there is a large attenuation basin proposed between these rear boundaries and the intended development block on the eastern side of the site. There is no risk of harm here.

8.113. To the west of the site there will be a green amenity strip, then Hampton Drive, and then the recently constructed dwellings within the Little Rushes estate to the west of that. The distance from the closest development block to these properties is maintained, again, at more than 30m. There is no risk of harm here, either.

8.114. Within the site, any reserved matters application seeking approval of design and layout will be fully controllable such that amenity issues between proposed dwellings within the site could be easily resolved prior to approval of those detailed plans.

8.115. The only point of concern noted from the parameters plan is the intended location for what is assumed to be a plant or pumping station which will be associated with the attenuation pond. Such a utility in this location, reasonably close to new and existing residential built form, could represent a threat to amenities through noise. However, the exact location, size and function of this building will only be apparent at reserved matters stage, and will also be likely affected by conditions relating to flood risk and drainage. At the point of submission of any reserved matters Officers could, if it felt necessary, request a noise impact assessment be carried out and/or mitigation put in place to ensure this didn't result in harm.

8.116. Consequently, Officers do not consider the site or indicative scheme before the Council to represent any risk of harm or threat to existing residential amenity levels experienced by residents in Blenheim Rise or the Little Rushes estate to the west.

### Archaeology

8.117. The application has been submitted with an archaeological desk-based assessment, which concludes the following:

*'There are no known heritage assets located within the proposal site or in position to be affected by its development. The wider area has revealed extensive evidence for prehistoric, most notably Iron Age, occupation, very limited evidence for Roman activity, and modest evidence for medieval and post-medieval occupation. Extensive Iron Age settlement remains have been excavated in the field immediately to the west and could originally have extended into the site. The proposal site has never been developed and any below-ground archaeological deposits and finds, should they have been present, could be expected to have survived relatively intact. The proposed development could carry the potential to damage or destroy archaeological deposits if present, in areas of building footprints. Therefore, it is considered that further information from field observation would be required to establish the archaeological potential of the proposal site. This could be achieved by an appropriately worded condition to any consent gained.'*

8.118. The archaeologist has responded to the application, having reviewed the desk-based assessment. They have provided the following conclusions:

*'The site therefore has potential for sub-surface archaeological remains of several periods. I would therefore recommend that a phased programme of archaeological evaluation works is undertaken as early as possible, with the potential for further mitigation measured depending on the results of the evaluation phase.*

*A phased programme of evaluation works should involve appropriate non-intrusive methods such as geophysical survey and, depending on results, archaeological trial trench evaluation of the site.*

*This evaluation phase of archaeological works should be undertaken in advance of the determination of the application in order that an informed view on the archaeological potential of the site, and any need for further post-consent works to be secured against full application, may be determined.'*

8.119. It is noted that the further 'evaluation phase' of archaeological works has not yet been undertaken. The comments were published on the Council's website on 11<sup>th</sup> February. As such, the application is deficient in information to allow the Council to appraise the archaeological potential of the site and the exact nature and scope of works that might need to be secured to evaluate and record archaeological remains.

8.120. Therefore, officers regard the absence of this information as a further reason to refuse permission, as officers are unable to adequately assess the impact of the proposal on archaeological remains.

8.121. Ecology Impact

*Legislative context*

8.122. The Conservation of Habitats and Species Regulations 2017 provide for the designation and protection of 'European sites' and 'European protected species' (EPS). Under the Regulations, competent authorities such as the Council have a general duty to have regard to the EC Habitats Directive and Wild Birds Directive.

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

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

#### *Policy Context*

8.124. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity. Paragraph 175 states that planning authorities should refuse planning permission if significant harm to biodiversity cannot be avoided, adequately mitigated, or, as a last resort, compensated for and should support development whose primary objective is to conserve or enhance biodiversity. Opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

8.125. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on nature conservation.

8.126. National Planning Practice Guidance (PPG) states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

8.127. Policy NE3 of the Part 2 LP seeks to conserve and wherever possible enhance green infrastructure. Policy NE4 seeks to protect and integrate existing trees and hedgerows wherever possible and requires new planting schemes to use native or similar species and varieties to maximise benefits to the local landscape and wildlife. Policy NE5 requires that proposals aim to conserve and enhance biodiversity and geodiversity in order to provide measurable net gains. Development proposals will not be permitted where they would result in significant harm to biodiversity or geodiversity, including protected species and sites of international, national and local significance, ancient

woodland, and species and habitats of principal importance identified in the United Kingdom Post-2010 Biodiversity Framework.

8.128. Policy BN2 of the JCS 2014 states that development that will maintain and enhance existing designations and assets or deliver a net gain in biodiversity will be supported. Development that has the potential to harm sites of ecological importance will be subject to an ecological assessment and required to demonstrate: 1) the methods used to conserve biodiversity in its design and construction and operation 2) how habitat conservation, enhancement and creation can be achieved through linking habitats 3) how designated sites, protected species and priority habitats will be safeguarded. In cases where it can be shown that there is no reasonable alternative to development that is likely to prejudice the integrity of an existing wildlife site or protected habitat appropriate mitigation measures including compensation will be expected in proportion to the asset that will be lost. Where mitigation or compensation cannot be agreed with the relevant authority development will not be permitted.

#### *Assessment*

8.129. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are present on or near the proposed site. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site is felt to have potential due to it being an undeveloped field/pasture in the open countryside, surrounded by mature trees and hedgerows. It is noted that there are number of ponds in the vicinity, one of which with records of Great Crested Newts.

8.130. In order to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 the LPA must firstly assess whether an offence under the Regulations is likely to be committed. If so, the LPA should then consider whether Natural England would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.

8.131. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.

8.132. The application is supported by a detailed protected species survey which has been reviewed by the Council's Ecology Officer, who has subsequently recommended a range of conditions which work with the survey to mitigate the impact on protected species.

8.133. The applicant also intends to submit (on or around 5<sup>th</sup> August) NatureSpace reports which will confirm the proposal can be accepted into the District Licensing Scheme that operates in this area. This will recommend conditions that will need to go on any subsequent approval which will be imperative in safeguarding Great Crested Newts.

8.134. On the basis that the Ecology Officer is satisfied with the content of the NatureSpace reports, and in the absence of any objection from Natural England, and subject to conditions as set out by both the Ecology Officer and NatureSpace, Officers are satisfied that the welfare of any EPS found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development. The Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged

#### The impact of the development on highway safety



8.135. Policy C2 of LPP1 requires development to mitigate its impacts on highway safety. Policy SS2 of LPP2 requires development to include a safe and suitable means of access for all people including pedestrians, cyclists and those using vehicles.

8.136. The NPPF also requires provision of a safe and suitable access for all users. Para 111 however makes clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

#### *Assessment*

- 8.137. Access – The access would be taken off Hampton Drive to the west of the site. This is a primary road providing access into the Little Rushes estate to the west. Hampton Drive has not yet been put forward for adoption by the Local Highway Authority (LHA), although it appears to have been constructed to adoptable standards. The Highway Authority does not typically support housing developments that take access from unadopted roads; all new development must be from an adopted highway.
- 8.138. On 12<sup>th</sup> May the LHA confirmed that most of its previous comments from early March had been addressed. Its concerns fell away, mainly because the applicant confirmed the intention to put forward Hampton Drive for adoption. It requested further drawings of the access (5.5m wide) and footpath (2m wide, to the south of access). These were actually provided in Appendix C of the Transport Statement dated 15<sup>th</sup> December 2021. It is submitted that a planning condition could be used to secure the installation of a tactile dropped kerb and pedestrian crossing from the new 2m footpath on the eastern side of Hampton Drive to the western side of Hampton Drive.
- 8.139. However, following the receipt of further comments, the LHA revised its position on 26<sup>th</sup> May. It referred to a Deed of Easement, which shows that the applicant has rights to form an access with a total maximum width of 7.5m (including footway) onto Hampton Drive. In response to this, the LHA advises that it is reverting back to its original request – which was for there to be a 2m wide footpath on the northern and southern sides of the proposed access road into the site, and a 2m footpath north up to the open space to the north-east of Little Rushes – two elements that it believes are necessary in order for the applicant to prove that an access ‘*suitable for adoption*’ can be installed for the proposed level of development.
- 8.140. The LHA also requested sight of refuse lorry swept path analyses, for a four-axle vehicle. These were provided in the Transport Statement dated 15<sup>th</sup> December 2021 (Appendix D).
- 8.141. Officers note the many comments referring to the Deed of Easement and the issues surrounding land ownership, and the ability of the applicant to implement what is being proposed. The applicant has provided copies of all three notices served on other parties, in line with the Certificate B section of the Application Form, which requires the applicant to serve notice on all owners of land within the red line that is not in the applicant’s control or ownership. The Deed of Easement confirms that the applicant has permission to form an access (5.5m wide) with a single footpath (2m in width) onto Hampton Drive. The applicant has confirmed that the owner of the land intends to put Hampton Drive forward for adoption. The ‘Response to Highway Authority Comments’ document from Glanville confirms that, in a meeting with the LHA on 17<sup>th</sup> March 2022, the LHA stated that ‘*the intention is sufficient, even if the road is not adopted in the fullness of time for whatever reason*’. The LHA has not disputed this.

- 8.142. Officers are satisfied that the applicant has served the appropriate notices and that the application, as submitted, is accurate and not misleading. The red line includes land that reaches the public highway to the south of the site. Officers are also satisfied that the applicant has legal rights with respect to ensuring the proposed access, at least insofar as the 7.5m width encompassing the road and footpath, can be implemented as submitted. While not technically a planning issue (land ownership is not a material consideration), it is clearly in the applicant's interest to seek permission for works they can reasonably implement. There are a couple of issues raised by the LHA which need mentioning, however.
- 8.143. Firstly, the issue of having the access into the site served by a single 2m wide footpath to the south of the road, rather than a 2m footpath on both sides. It is a little perplexing to Officers that the LHA can confirm satisfaction with a single footpath to the south, only to then revert to a more onerous requirement simply on the basis of finding out about a Deed of Easement. Such matters should be judged on whether they comply with locally *and* nationally adopted guidance and policy, and, ultimately, whether a deficient arrangement will result in harm to highway safety (the test as set out by Paragraph 111 of the NPPF). It is unclear how the Deed of Easement would impact any scheme's compliance with guidance and policy, or cause an application to fail the NPPF's tests for refusing development on highway grounds.
- 8.144. Glanville's response to the LHA's original comments from March includes reference to a document that the LHA itself forwarded to them; 'Specifications and Standards for Highway Layouts'. The key parameters relevant to this scheme (and which tie into the LHA's objections/concerns in respect of footpaths accompanying access roads) are listed below...
- **Carriageway width 5.5m** - complies
  - **Footways cannot change to service strips/shared surface other than at junctions (and extend 2m beyond tangent point)** – the scheme complies insofar as the footpath heads south away from the site and links to existing highway network without changing width etc – internal layouts would not be relevant until a reserved matters application were submitted
  - **Minimum footpath width 2m** – complies
  - **Residential junction radii to be 6m/7.5m** – complies
  - **Pedestrian crossing points must be provided at all new junctions consisting of two dropped kerbs and two tapered kerbs** – not proposed, but securable via planning condition
- 8.145. Glanville highlight the fact that the guidance does not state that footways are required on both sides of the road. Furthermore, the requirement as set out by the LPA for the footpath on the northern side of the site to then extend further north up to a public open space appears to be based upon local respondents, who consider this to be important given the popularity of the open space to local residents. While Officers do not doubt that the provision of a footpath north from the site to the open space would be *beneficial*, the applicant would not be able to provide this, given the land is outside of their ownership, and at any rate, it is clearly not a requirement set out by local or national guidance.
- 8.146. Consequently, Officers cannot agree with the LHA, insofar as a 2m footpath on the northern side of the access road is required in order to provide an access of adoptable standards. The LHA's own guidance does not stipulate this requirement. It is therefore unreasonable to refuse the application on this basis, or force the issue by imposing an easily challenged planning condition.

- 8.147. Secondly, the LHA correctly points out that the headwalls of the new culvert which will be required over the existing swale appear to be positioned on land outside of the applicant's ownership. Culverting the swale is clearly integral to providing access into the site, and if the headwalls must be a regulatory distance from the highway boundary in order to comply with relevant regulations (not enforced by planning) then this appears to be an unavoidable situation. The applicant has not confirmed whether the Deed of Easement permits all ancillary works required to form a 7.5m wide access (including footpaths) into the site, or whether it simply covers those elements as described. Nonetheless, this is, again, not a material planning consideration; it will be for the applicant to ensure they obtain relevant permission for installing the headwalls as required, or for carrying out any other works (alternative/in addition to) which are in land not in their control or ownership. The provision of the culvert and further details of this are controllable/requestable via planning condition.
- 8.148. Officers are satisfied that an adoptable access, compliant with the LHA's own standards and guidelines (i.e. 'Specifications and Standards for Highway Layouts') can be provided in respect of this site, and that the construction details and delivery of this access could be secured via planning condition(s). Officers do not agree with the LHA's insistence that a 2m footpath is provided to the north of the access road, or that one is extended northwards up from the site's junction with Hampton Drive to the open space associated with Little Rushes.
- 8.149. Traffic generation - Officers note that some local residents have raised concerns about the suitability of the local highway infrastructure to facilitate a new development of this scale. Officers are aware that approving a scheme of up to 32 units here will place additional pressure on the existing highway network. It is noted that the LHA does not explicitly object to the development on the basis of the pressure it would place on the local network. The NPPF's test is clear; the residual cumulative impacts of a development must be 'severe' in order to justify withholding permission on this basis.
- 8.150. The LHA document 'Development Management & Adoptions Specification and Standards for Highway Layouts' dated August 2019 advises that carriageways should be 5.5m wide where a single point of access serves more than 200 dwellings (Clause 2.b.iii.1). Where Hampton Drive meets the highway to the south, its width is 5.5m, and it is served by a 2m wide footpath on one side.
- 8.151. The total number of units served by Hampton Drive will be considerably less than 200 even as a result of the development. The development will not result in a situation that conflicts with the guidance in the above referenced document, and as such the traffic generated by the development will not result in harm to the existing users of the public highway. Officers also note the results of a TRICS survey (Appendix E of the Transport Statement).

#### *Conclusion*

- 8.152. The application site is within an accessible location and the village amenities available to occupiers are located within easy walking distance. As established earlier, there are public transport options, even if these do not cause the application to overcome the conflict with the Development Plan in respect of the principle of development.
- 8.153. While the LHA maintains an objection to the scheme, Officers do not find this objection to be based on non-compliance with its adopted guidance and policies. The LHA has not reinforced its position through reference to the harm that would be caused to highway safety or the local highway network. Officers afford weight to the response submitted by

Glanville, and its reference to the LHA's own guidance on new residential development, and are of the view that what has been proposed is compliant with this.

- 8.154. Consequently, the application would not result in harm to highway safety, or a severe impact on the local highway network, and passes the test set out by paragraph 111 of the NPPF. Conditions could be used to secure the implementation of the proposed highway improvement works, in the event the Council were minded to grant permission.
- 8.155. There is therefore no basis to refuse the application on highway matters.

#### Flood risk and drainage

- 8.156. The site is wholly within a Flood Zone 1, which carries the lowest risk of flooding. No parts of the site are within any areas at risk of surface water drainage issues, although this problem has been raised by the Parish Council and numerous third parties. This issue has been identified in the Flood Risk Assessment (paragraph 2.15):

*'The site investigation indicates that the site is poorly draining. As such, although some rain falling on the surface of the site will infiltrate to ground, a much larger proportion generates surface run-off which flows overland to Hampton Drive Watercourse along the southern site boundary. From here flows are split between Hampton Drive Culvert and the route through the 2019 Barwood development towards the Banbury Lane Watercourse.'*

- 8.157. Thames Water and Anglian Water have offered no objections in respect of foul water drainage and surface water drainage, although the latter is simply the water provider in this area and has not offered any comments at all.
- 8.158. As the site proposes more than 10 dwellings, and is therefore a 'major' development, the application is accompanied by a Flood Risk Assessment which includes a surface water drainage strategy and foul water drainage strategy. Further information was submitted by the applicant on 14<sup>th</sup> June 2022, which, together with the design and access statement and site location plan, has been reviewed by the Lead Local Flood Authority (LLFA).
- 8.159. The LLFA has responded and advised that the revised information is acceptable. It has recommended conditions to mitigate flood risk and drainage issues which are set out very clearly in its response dated 21<sup>st</sup> June 2022.
- 8.160. As such, flood risk and drainage are considered to be appropriately mitigable through the use of planning conditions as recommended by LLFA.

#### Local Infrastructure and S106 obligations

##### *Policy context*

- 8.161. Policy INF1 both within the JCS and the LPP2 require new development to be supported by appropriate infrastructure.
- 8.162. In this case there are improvements and enhancements to infrastructure, services and facilities required as a result of this development. These contributions are listed below.

##### *Healthcare provision*

- 8.163. The Clinical Commissioning Group (CCG) has not yet responded to the application. This consultee would typically request a figure calculated referencing the number of units

proposed by the scheme and the projected increase in population it would generate. The figure requested would go towards improving or expanding primary healthcare capacity within the settlement.

*Refuse and recycling*

8.164. The development generates a need for additional wheelie bins to be provided by the Local Authority, which also must ensure there is a waste collection service. In order to do this, a contribution of **£70 per dwelling** is sought.

*On site amenity space*

8.165. The site is able to delivery notably more amenity green space and natural/semi-natural green space than is required by policy (0.9ha approx. vs 0.07ha) and so there is no need for an off-site commuted sum to be calculated. The provision of the open space could be tied into any legal agreement subsequently prepared and agreed between the authority and the applicant.

*Off-site playing fields*

8.166. The type of development proposed will generate a need for additional playing fields and equipment associated with those fields. The site is not capable of providing this, and as such the Council would typically seek payment of a financial contribution towards provision and maintenance of off-site playing fields in the locality of circa **£924.70** per dwelling.

*Children's play and provision for young people*

8.167. The development will generate the need for an additional 0.01ha of children's play areas and space for young people. This could be provided on site, as there is sufficient space to do this, and the requirement could be conditionally tied to the permission or, more appropriately, presented as a clause within a subsequent legal agreement. The off-site commuted sum for providing these facilities elsewhere is calculated at **£36,304.68**, with £22,430.28 of that forming the overall cost of provision, and £13,874.40 forming the cost of maintenance.

*Allotments*

8.168. The development generates a need to provide or enhance existing allotment facilities within the locality. The total requirement generated by the development is 0.01ha, and would attract a contribution of **£2,118.38**, with £1,306.22 going towards provision and £812.16 going towards maintenance. In the event that it is deemed impractical or unreasonable to request this moneys, an allotments contribution could be omitted from any subsequent legal agreement.

*Library contributions*

8.169. A contribution would be required towards the improvement, enhancement or expansion of library facilities within Kings Sutton or the locality that will serve the development. Contributions will be calculated on a 'per dwelling' basis, when the housing mix is known, in accordance with this table:

| <b>Size of Dwelling</b> | <b>1 bed</b> | <b>2 bed</b> | <b>3 bed</b> | <b>4+ bed</b> |
|-------------------------|--------------|--------------|--------------|---------------|
| <b>Cost per unit</b>    | £109         | £176         | £239         | £270          |

#### *Education – early years services*

8.170. The Economic Growth Regeneration Team (EGRT) has not provided a total figure for early years services, as the ‘sufficiency of capacity’ evidence base is currently being updated, and it is not possible to determine the current capacity and likely impact of this development on the demand. The EGRT have provided the multipliers, however, that would apply in the event a contribution was required:

| <b>Size of Dwelling</b> | <b>1 bed</b> | <b>2 bed</b> | <b>3 bed</b> | <b>4+ bed</b> |
|-------------------------|--------------|--------------|--------------|---------------|
| <b>Cost per Unit</b>    | £0           | £3,724       | £3,972       | £4,220        |

8.171. Further consultation with the EGRT would therefore form an integral part of the completion of a subsequent S106 agreement if the Council were to approve the application.

#### *Education – primary*

8.172. The EGRT advises that due to capacity within current provision, no S106 contribution would be required in respect of Primary Education infrastructure. However, these comments are provided on the basis of the indicative mix suggested by the applicant; the EGRT advises that *‘this will be reassessed once the mix of dwellings to be delivered on the site is confirmed through the planning process’*. This would not be compatible with the way the process would work; the legal agreement requiring a contribution (or not) must be completed at outline stage, on the basis of an indicative mix but understanding the final mix might be different.

8.173. Therefore, further consultation with the EGRT would therefore form an integral part of the completion of a subsequent S106 agreement if the Council were to approve the application to ensure that children residing at the properties, irrespective of the final agreed mix, can attend a local school.

8.174. The multipliers for the contributions required for primary education are provided below.

| <b>Size of Dwelling</b> | <b>1 bed</b> | <b>2 bed</b> | <b>3 bed</b> | <b>4+ bed</b> |
|-------------------------|--------------|--------------|--------------|---------------|
| <b>Cost per Unit</b>    | £0           | £1,614       | £3,972       | £4,592        |

#### *Education - secondary*

8.175. Notwithstanding the figures set out by the EGRT for secondary education contributions, SNC’s Infrastructure Funding Statement makes it clear that funding for secondary education should come from CIL. Therefore, Officers contend that a separate sum should not be sought via S106.

#### *Conclusions*

8.176. The development will result in the need for improvements and enhancements to local infrastructure in order to mitigate its impact. The proposal also needs to provide 50% affordable housing. These contributions and provisions would need to be included in a S106 agreement.

8.177. There is presently no signed S106 agreement accompanying this application.

8.178. Given the Council's recommendation, it is submitted that a further reason for refusal should be recommended in the absence of a legal agreement securing the necessary contributions towards local infrastructure and facilities impacted by the development, and the policy compliant affordable housing provision.

8.179. It is recognised that, in the event the applicant appeals the decision, a draft S106 agreement could be provided in order to eliminate this reason for refusal.

## **9. FINANCIAL CONSIDERATIONS**

9.1. The development would attract a Community Infrastructure Levy (CIL) payment under the Council's current CIL Charging Schedule. However due to the outline nature of the development the figure is currently unknown. The CIL charge will be calculated fully upon the submission of a detailed reserved matters application. Certain reliefs and exemptions are available (including social housing relief) and if claimed could result in a zero charge, unless disqualifying events occur. (For further information relating to CIL please visit <https://www.southnorthants.gov.uk/info/174/community-infrastructure-levy-cil>).

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

10.1. Paragraphs 8.1 – 8.77 ('Principle') explore whether, notwithstanding the conflict with the development plan in policy terms, and the Council's presently healthy housing land supply figure of 6.9 years, the site before the Council today and the proposed development of up to 32 dwellings can be considered sustainable development.

10.2. Pertinently, Officers have sought to compare the current submission to two sites in Middleton Cheney that were recently granted approval at appeal, despite proposing market-led housing developments in the open countryside, at a time when the Council had a housing land supply. These appeals were granted due to very site-specific circumstances, as set out by the Inspector in those decisions.

10.3. As such, Officers have sought to establish whether there are very site-specific factors that justify the Council taking an exceptional approach to this development in Kings Sutton that, on face value, directly and significantly conflicts with the development plan and results in harm.

10.4. Those paragraphs also look at whether, notwithstanding King Sutton's status as a Primary Service Village and whether or not it is as sustainable as Middleton Cheney, the provision of affordable housing should be afforded such significant weight as to outweigh the harm arising through the technical conflict with the development plan.

10.5. Officers find that Kings Sutton and Middleton Cheney are not directly comparable in terms of sustainability, and that differences between them, primarily relating to the availability of timetabled bus services (or the lack of such services from Kings Sutton) and the quantity and availability of other general services, infrastructure and proximity/ease of access to higher order settlements, including employment opportunities, cause there to be no particularly important site-specific factors for this site in Kings Sutton that add positive weight to the scheme.

10.6. Officers are also concerned that supporting market-led schemes outside the settlement confines such as this one serve to undermine the spatial strategy. The spatial strategy has recently been tested through two recent appeals in Milton Malsor and Blisworth whereby the housing supply figures have been challenged unsuccessfully. Pertinently, Inspectors did not find merit in using an 'administrative area approach' to calculating relevant figures during these challenges.

- 10.7. Furthermore, the Council has recently adopted policies which are intended to encourage the delivery of affordable housing through (for example) exception sites. While it is acknowledged that the scheme before the Council today has been proposed and would go some way to meet the existing demand, it is inescapable that to offer continued support to market-led schemes that offer *potentially* less affordable housing than what could be provided as policy compliant schemes on the same (or other) sites serves to, in the long run, undermine those policies.
- 10.8. The Council must determine the application in accordance with the development plan, and in this instance the scheme is contrary to the policies within this plan. The harm caused through the conflict with the development plan is therefore considered to outweigh any material considerations that might weigh in the scheme's favour. The principle of development is unacceptable at a fundamental level, and as such should not be supported.
- 10.9. Furthermore, after appraising the visual and landscape impact the development would have on the character and appearance of the site, particularly from the more immediately surrounding public domains, Officers consider the site and the proposed residential blocks within it to relate poorly to the existing established residential built form within the village to the south and more recently built dwellings to the west. The site should not be regarded as a 'transitional' parcel of land which bridges a gap between open countryside and the urban edges of the settlement; instead its positive contribution is derived precisely from its undeveloped nature providing a cessation in built form and the commencement of an agrarian landscape which is a character of this part of the district.
- 10.10. Consequently, the application also fails on visual harm/disruption grounds, and a second reason for refusal should be added for that reason.

## **11. RECOMMENDATION / CONDITIONS AND REASONS**

### **RECOMMENDATION – REFUSAL FOR THE REASONS SET OUT BELOW**

- 1. The proposal fails to comply with the Council's adopted Development Plan which seeks to direct new residential development to the most sustainable locations within the district. Specifically, the proposal is a market-led housing scheme located outside of the settlement confines and does not comply with any of the exception policies listed within the South Northamptonshire Local Plan Part 2 that offer support to development outside of the confines of settlements. The Council can demonstrate in excess of a five-year housing land supply and as such all relevant Development Plan policies are considered up to date and paragraph 11(d) of the NPPF does not apply. Having considered all relevant material considerations, including the relative sustainability of the settlement, the availability and accessibility of its services, facilities, those of adjoining urban centres and employment opportunities, the provision of affordable housing and outcome of recent relevant appeal decisions, it is concluded that the harm caused through this application's conflict with the development plan exceeds any considerations that weigh in the application's favour. Therefore, the proposal fails to comply with policy LH1 of the South Northamptonshire Local Plan Part 2 and policy R1 of the West Northamptonshire Joint Core Strategy.**
- 2. The proposal fails to comply with the Council's adopted Development Plan which seeks to avoid the unacceptable loss of undeveloped land and open spaces of**



particular significance to the form and character of a settlement, and requires new development to be compatible and integrate well with its surroundings and the distinctive local character of the area. The site, and particularly the built form within the scheme, will not relate well to the existing established residential suburbs on the northern edge of Kings Sutton nor the recently completed 'Little Rushes' development to the west. Instead, it results in an incongruous, intrusive and disconnected collection of dwellings in an open-countryside location, within a parcel of land that contributes positively to the appearance, character and setting of the settlement through its undeveloped, peaceful nature, and would disrupt the tranquillity of the agrarian landscape in this location, which is protected by a Special Landscape Area designation. Therefore, the proposal fails to comply with policy SS2 (1.a and 1.b) and policy NE2 of the Local Plan Part 2 and policies S10 and R1 of the Joint Core Strategy.

3. The application is deficient in information required to allow the Council (and the relevant consultee) to ascertain the amount and significance of sub-surface remains that the site has the potential to contain, based upon information held by the Northamptonshire Historic Environment Record. This advises that extensive Iron Age settlement remains were excavated on the adjacent site to the west in 2012. In the absence of a report detailing the outcome of a further evaluation phase of archaeological work, required pre-determination as set out by the Archaeological Advisor to the Council, the Council is unable to arrive at an informed view on the archaeological potential of the site, and thus whether there is a need for further post-consent works to be secured against a full application. The application therefore fails to comply with policies HE1 and HE2 of the Local Plan Part 2, policy BN5 of the Joint Core Strategy and Paragraph 205 of the NPPF.
4. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure, facilities and services required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and contrary to policy INF1 of the South Northamptonshire Local Plan Part 2 and INF1 of the West Northamptonshire Joint Core Strategy.

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