

Friday, 18 February 2022

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LOWLANDS AREA PLANNING SUB-COMMITTEE

You are summoned to a meeting of the Lowlands Area Planning Sub-Committee which will be held in the Council Chamber, Woodgreen, Witney OX28 1NB on **Monday, 28 February 2022 at 2.00 pm.**



Giles Hughes
Chief Executive

To: Members of the Lowlands Area Planning Sub-Committee

Councillors: Ted Fenton (Chairman), Joy Aitman (Vice-Chair), Rosa Bolger, Maxine Crossland, Harry Eaglestone, Duncan Enright, Steve Good, Jeff Haine, Richard Langridge, Nick Leverton, Dan Levy, Lysette Nicholls, Carl Rylett, Harry St John and Ben Woodruff

Recording of Proceedings – The law allows the public proceedings of Council, Cabinet, and Committee Meetings to be recorded, which includes filming as well as audio-recording. Photography is also permitted. By participating in this meeting, you are consenting to be filmed.

As a matter of courtesy, if you intend to record any part of the proceedings please let the Democratic Services officers know prior to the start of the meeting.

AGENDA

1. **Minutes of Previous Meeting (Pages 3 - 8)**
To approve the minutes of the meeting held on 5 January 2022
2. **Apologies for Absence**
To receive any apologies for absence.
3. **Declarations of Interest**
To receive any declarations from Members of the Committee on any items to be considered at the meeting.
4. **Applications for Development (Pages 9 - 88)**
Purpose:
To consider applications for development, details of which are set out in the attached schedule.
Recommendation:
That the applications be determined in accordance with the recommendations of the Business Manager – Development Management.

Page	Application Number	Address	Officer
11 - 28	21/01236/FUL	Ducklington Farm Course Hill Lane	Joan Desmond
29 - 45	21/02320/FUL	Land South Of Giernalls Road	Abby Fettes
46 - 88	21/03405/OUT	Land East Of Witney Road	David Ditchett

5. **Applications Determined under Delegated Powers and Appeal Decisions (Pages 89 - 148)**
Purpose:
To inform the Sub-Committee of applications determined under delegated powers and any appeal decisions.
Recommendation:
That the reports be noted.

(END)

WEST OXFORDSHIRE DISTRICT COUNCIL

Minutes of the meeting of the

Lowlands Area Planning Sub-Committee

Held in the Council Chamber at 2.00 pm on **Wednesday, 5 January 2022**

PRESENT

Councillors: Councillor Ted Fenton (Chairman), Councillor Joy Aitman (Vice-Chair), Councillor Maxine Crossland, Councillor Harry Eaglestone, Councillor Duncan Enright, Councillor Andy Goodwin, Councillor Jeff Haine, Councillor Richard Langridge, Councillor Martin McBride, Councillor Michele Mead, Councillor Lysette Nicholls, Councillor Harry St John and Councillor Ben Woodruff

Officers: David Ditchett (Senior Planner), Abby Fettes (Interim Development Manager) and Elloise Street (Planner)

42 Minutes of Previous Meeting

The minutes of the meeting held on 6 December 2021 were approved and signed by the Chairman as a correct record.

43 Apologies for Absence

Apologies for absence were received from Councillors Rylett and Bolger.

Councillor Goodwin substituted for Councillor Levy.

Councillor McBride substituted for Councillor Leverton.

Councillor Mead substituted for Councillor Good.

44 Declarations of Interest

There were no declarations of interest received.

45 Applications for Development

The Sub-Committee received the report of the Business Manager – Development Management, giving details of an application for development, copies of which had been circulated.

RESOLVED: That the decisions on the following applications be as indicated, the reasons for refusal to be as recommended in the report of the Business Manager – Development Management, subject to any amendments as detailed below:-

21/02364/FUL - Land (E) 432925 (N)209696 Downs Road, Curbridge, Witney

The Planning Officer, Abby Fettes, introduced the application for the erection of four employment units (Class E (g iii), B2 and B8) with drainage, car parking and landscaping.

A public submission was received from David Edward-Hughes in objection to the application. He advised the Committee that the proposed units nine and ten were too high and their distance from the residential properties needed to be increased. He added that the boundary between the industrial and residential land had not been adequately protected, that the landscaping was grass and provided no protection from the commercial buildings. He informed the committee that policies OS2, OS3, OS4 and EH4, 6 and 8 all provided valid reasons for refusal of the application.

A public submission was also received from James Hicks representing the applicant. He informed the Committee that the boundary strip had been increased in liaison with officers.

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He acknowledged that the proposed use differed from those initially permitted, in order to provide more varied employment. Mr Hicks suggested that the conditions placed on the first phase of the development were copied onto this phase and was happy to agree to extend the acoustic fencing as requested.

Councillor Doughty, as Ward Member, spoke in support of local residents. She had visited the site and Mr Edward Hughes' house and concurred about the height of the buildings being too high. She stated her strong support for the resident's at Windrush Place's objections.

The Planning Officer then presented her report containing a recommendation of provisional approval. She advised that the buildings would not be overshadowing the residential area as they were to the north of that area. She advised that officers believed that the amendments agreed made the application acceptable. Following a discussion with the Environmental Health Department (EH), provided in the additional representations report, the officer noted that they had no objections but had proposed a new condition. The officer requested delegated powers to the officers, Chairman and Legal Services for the conditions on the application and for completing the negotiations of a unilateral undertaking with regards the funding for a footpath.

Councillor Goodwin asked for clarification on the distance of the units from Mr Edward Hughes' house. The officer confirmed that this was 20 metres.

Councillor Fenton requested confirmation that the boundary strip was to be planted with trees and hedges. The officer confirmed this, stating that liaison was ongoing with the Tree Officer.

Councillor Enright asked for clarification on how this application differed from the outline planning application. The officer stated that the difference was only in the use classification which had been extended from B1 to also include B2 and B8.

Councillor Langridge suggested that this was a difficult decision in that it was important to support businesses but also to consider residents. He felt the units were too high, too close to the residential area and would dominate it, resulting in a negative impact on the residents. He noted that the residents had understood that the site would be built for offices only and this application was significantly different to that.

Councillor Langridge, due to the overbearing nature of the development, proposed that the application be refused. Councillor Eaglestone seconded this proposal.

Councillor Goodwin agreed with Councillor Langridge and was also concerned about the width of the buildings. The officer advised that this size of building had been submitted because there was a market for this size of unit. She added that the Business Development Officer supported the application and the applicant who, he stated, knew their business.

Councillor Enright also felt this was a difficult decision and could not see how to refuse it in planning law.

Councillor Haine expressed his sympathy with the residents. He noted that the outline height of buildings was 15 meters and the highest unit proposed was only 12 meters. He also noted that the planned barrier strip would make a difference.

The officer advised that the planted strip was under the control of the consortium building on the site and the officers were negotiating for more evergreen planning and a maintenance management plan to be in place.

Councillor St John stated that the plan for the site indicated offices would be placed on the boundary with the residential area not warehouses. He felt that the issue was the height of the units and the impact of this as well as the all night lighting. He suggested that the whole

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plan needed re-thinking. The officer advised that this was a full application so it did not have to conform to the outline planning application.

Councillor McBride asked about the Town Council objection with regard to policy OS2 which stated that all development should "Be compatible with adjoining uses and not have a harmful impact of the amenity of existing occupants". The officer confirmed that this was correct.

Councillor Langridge stated that if this was an application on its own merits (and not part of the outline planning permission) then it could be refused as he had already indicated.

The Chair noted that in refusing, and therefore going back to the outline planning permission, it would be possible that the outcome could turn out worse.

Councillor Woodruff asked about conditions that could be applied to limit the activity on the site at night. The officer informed the committee that Environmental Health had suggested such a condition. She stated that it would also be possible to limit noise levels at all times with a condition. Councillor Woodruff felt that a number of issues were being left unresolved in the current application, as outlined in the preceding discussion.

The Chair advised that the application was for provisional approval with delegated decisions on the lighting, noise and buffer zone conditions being delegated to officers and the Chairman.

Councillor Haine noted Environmental Health's recommended in their proposed new condition that reversing beepers to be silenced at night and vehicles to be off loaded inside the warehouses. With these conditions in place he felt he could support the application.

Councillor Fenton raised the problem with the current light levels from the existing business area.

Councillor St John expressed his continuing concern about 24 hour operation on the site.

Councillor Crossland was concerned about the objections but with the height of the unit at nine metres and the vehicle access at the far side of the building with the buildings blocking both noise and light from the residential area, she felt on balance that she could support the application with conditions in place.

Councillor Enright asked for clarification that the units could be six metres taller in the outline application without the Council being able to object. The officer stated that the units' maximum height close to the residential area was set at twelve metres with a 15 metre maximum in other parts of the site.

Councillor Fenton asked that if office blocks were built and later a change of use applied for, could this give a similar end result to the application as it is now. The officer advised that special conditions would need to be added to manage such a situation.

Councillor Goodwin asked about required levels of parking for office blocks compared to industrial units. He also asked about how many office blocks were open 24 hours. The officer did not have details of parking requirements for office blocks but did note that the market was requiring less office space. She had no experience of offices being used throughout 24 hours.

Councillor Mead advised that the offices in Carterton were in 24 hour use.

Councillor Fenton noted that the market had changed since the pandemic and now required more distribution centres and fewer offices.

Councillor Haine stated his support for approval of the application and felt that the application had improved a lot through the work done on it. He noted that a different application could be worse.

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Councillor Langridge expressed his confidence in the officers in protecting the Council from worse applications.

Councillor Langridge's proposal that the application be refused was then put to the vote and was lost.

Councillor Crossland suggested that the officers' recommendation that the application be provisionally approved subject to the conditions detailed in the report and subject to legal agreement and conditions being placed in relation to: the buffer planted strip, Environmental Health's requirements and outside lighting restrictions to be negotiated by officers and delegated approval on these conditions to officers, the Chairman and if necessary to be returned to Lowlands Planning sub-Committee, and proposed that permission be granted.

This was seconded by Councillor Haine.

The officers' recommendation of provisional approval was then put to the vote and was carried with the following voting:

Approve 8

Against approval 3 – Councillors Langridge, Eaglestone and Goodwin

Abstained 1 – Councillor St John

Approved (provisional)

21/01565/FUL 35 Taphouse Avenue Witney

The Planning Officer, David Ditchett, introduced the partially retrospective application for the sub-division of the dwelling to form a house of multiple occupation and a self-contained studio flat and associated works and presented his report containing a recommendation of approval.

Following questions from Councillor Fenton the officer explained that the applicant was not aware that planning permission was required which was why the application for change of use to a House in Multiple Occupation (HMO) and creation of self-contained studio flat was retrospective. The section of the application for conversion of the outbuilding to residential use was not retrospective as the annex was not currently in use as additional living accommodation. However, was included with the rest of the application because although the annex was proposed as self-contained accommodation, it would share pedestrian access and garden space with the rest of the property and as such officers considered it to be an annex, which also required planning permission.

Councillor Langridge proposed that the application be refused contrary to officers' recommendation. He stated that he agreed with the Town Council's objections that this was over development with a lack of amenity; out of character for the area and would have a detrimental impact on the neighbours.

This was seconded by Councillor Enright who stated that he agreed with Councillor Langridge and the Town Council that this development was inappropriate in this location. He acknowledged that this was a difficult application for officers due to its partial retrospective nature.

Councillor St John asked about HMO licence regulations, stating that this was a massive over development. He supported Councillor Langridge's view. The officer informed the Committee that the application, if approved, created an increase in the occupancy from seven to nine people which would require a new HMO licence to be applied for.

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Councillor Goodwin asked whether the application met minimum internal space standards. The officer informed the Committee that the development of the annex / outbuilding would meet the standard required for one person but not for a couple to occupy it. However, the studio flat proposed within the house did not meet the national space standards for one person. He noted that the national space standards were not listed in the Local Plan but could be seen as being included in OS2 which required a high standard of amenity.

Councillor Crossland stated that she supported Councillors Langridge and Enright, that the development was overly intense and that there could be a negative impact on many neighbouring gardens.

Councillor McBride asked about objections from neighbours to the application. The officer confirmed that no objections had been received from neighbours.

Councillor Haine noted that HMOs provided a needed form of accommodation and that any noise nuisance was within the remit of the Environmental Health Department. He felt that, since there was no evidence of nuisance to the neighbours, he could support the application.

Councillor Woodruff questioned whether the applicant would be granted a new HMO licence. The officer stated that he was not an expert in HMO licensing but expected that the license would be granted based on the minimum roof size requirements for the HMO licence regime.

Councillor Nicholls questioned the safety of the rear staircase. The officer agreed that the staircase may need to be made more safe, perhaps with a handrail, however this was a building control issue.

The proposal that the application be refused contrary to officers' recommendation was then put to the vote and was carried.

Refused

21/03565/HHD - 81A Newland Witney

The Planning Officer, Elloise Street, introduced the application for a single storey side extension and porch with provision of new solar panels to the front elevation and presented her report containing a recommendation of approval. She advised that the applicant was a Council Member.

Councillor Enright declared an interest as he lived in Newland and was friends with the applicant. He left the meeting.

Councillor Langridge asked if the officer's recommendation would be the same if the applicant were not a Council Member. The officer responded saying yes their recommendation would be the same.

Councillor Langridge then proposed that the application be granted as per officers' recommendations.

This was seconded by Councillor St John.

The officers' recommendation of approval was then put to the vote and was carried.

Approved

Councillor Enright returned to the meeting.

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The report giving details of applications determined under delegated powers was received and noted.

The Meeting closed at 3.17 pm

CHAIRMAN

WEST OXFORDSHIRE DISTRICT COUNCIL

LOWLANDS AREA PLANNING SUB-COMMITTEE

Date: 28th February 2022

REPORT OF THE BUSINESS MANAGER-DEVELOPMENT MANAGEMENT



Purpose:

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

Recommendations:

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

List of Background Papers

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

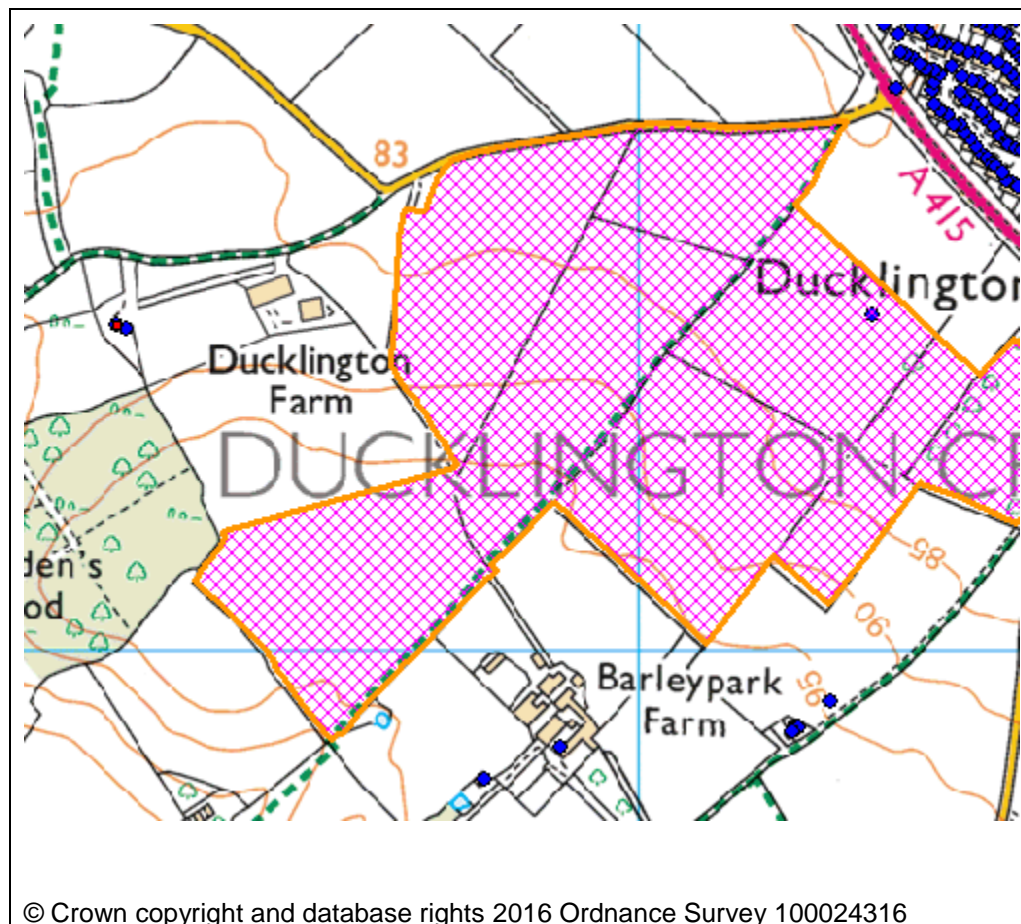
Please note that:

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

Page	Application Number	Address	Officer
11 - 28	21/01236/FUL	Ducklington Farm, Course Hill Lane, Ducklington	Joan Desmond
29 - 45	21/02320/FUL	Land South Of Giernalls Road, Hailey	Abby Fettes
46 - 88	21/03405/OUT	Land East Of Witney Road, Ducklington	David Ditchett

Application Number	21/01236/FUL
Site Address	Ducklington Farm Course Hill Lane Ducklington Witney Oxfordshire OX29 7YL
Date	16th February 2022
Officer	Joan Desmond
Officer Recommendations	Approve
Parish	Ducklington Parish Council
Grid Reference	434310 E 207429 N
Committee Date	28th February 2022

Location Map



Application Details:

Installation and operation of solar farm including associated engineering and infrastructure works.

Applicant Details:

Novus Renewable Services Limited
Craven House
16 Northumberland Ave
London
WC2N 5AP

I CONSULTATIONS

Ecologist

No Comment Received.

Major Planning Applications
Team

OCC Highways - No objection.

LLFA - Objection

Key issues:

LLFA appreciate the information and strategy provided. However, we have decided to object on the following basis;

Full infiltration testing for all pits must be provided in accordance with BRE365. Soakage tests to BRE 365 should be carried out to confirm that infiltration is feasible for the soakaway SuDS intent for the proposed development.

Exceedance flow paths were not demonstrated for the pre-development and post-development site to show that flows will be contained within the site boundary and away from any buildings post development. Information on overland flood flow paths and their maintenance should be demonstrated. An exceedance flow route plan should be provided with levels to indicate that all surface water falls away from buildings and that exceedance flows are contained within the site boundary

Details that the proposed infiltration SuDS feature is not located in contaminated land and that a 1m freeboard is provided between the groundwater level and the base of the infiltration SuDS feature.

A detailed drawing showing all drainage aspects has not been provided.

Archaeology - Objection

Key issues:

The site is located in an area of archaeological interest and an archaeological desk based assessment and the results of an archaeological evaluation will need to be submitted prior to the determination of this application.

Ecologist

Additional information required.

WODC Landscape And
Forestry Officer

No Comment Received.

ERS Env. Consultation Sites	<p>Mr ERS Pollution Consultation Thank you for consulting our team, I have looked at the application in relation to contaminated land and potential risk to human health.</p> <p>Given the former agricultural use of the site please consider adding the following condition to any grant of permission.</p> <p>1. In the event that contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11, and where remediation is necessary a remediation scheme must be prepared, to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property, and which is subject to the approval in writing of the Local Planning Authority.</p> <p>Reason: To prevent pollution of the environment in the interests of the amenity.</p> <p>Relevant Policies: West Oxfordshire Local Planning Policy EH8 and Section 15 of the NPPF.</p>
Major Planning Applications Team	<p>LLFA - Approve</p> <p>Landscape Specialist - Recommend conditions - Landscaping scheme; Landscape Management Plan and Lighting scheme.</p>
Ecologist	Further information still required.
OCC Archaeological Services	<p>Objection - Key issues:</p> <p>The site is located in an area of archaeological interest and an archaeological desk based assessment and the results of an archaeological evaluation will need to be submitted prior to the determination of this application.</p>
Ecologist	No Comment Received.
MOD MOD (Brize Norton)	No Comment Received.
Parish Council	No Comment Received.
Ecologist	I have the following comments with recommendations for conditions

and informatives.

Protected and priority species

Bats and birds

The site offers suitable foraging and commuting habitat for bats such as hedgerows and field margins as well as the adjacent off-site woodland. I understand that the hedgerows are to be retained which is satisfactory. The ecology report states that if trees works are required for health and safety reasons in the future then a bat roost assessment will be carried out prior to the works. This is satisfactory.

I recommend that a sensitive external lighting strategy is prepared. The lighting scheme should ensure that the hedgerows, as well as the adjacent ancient woodland to the west of the site, are not illuminated by external lighting. The details of the external lighting should be submitted to the LPA as a condition of planning consent.

The site offers suitable habitat for breeding birds. For example, it is possible for skylark to be breeding on site and the ecology report states that the solar farm will include sufficient space to support the population on site. The wildflower strip along the footpath will be created to be beneficial for skylarks and this area will be fenced off from the public footpath to ensure that it is not disturbed. Precautionary working is also recommended for birds and this is satisfactory.

I also recommend that the development includes bat and birds boxes as biodiversity enhancements. For example, barn owl boxes can be mounted onto mature trees or pole-mounted boxes can be erected. Other bat and bird boxes can also be mounted onto mature trees (ideally close to the ancient woodland). The specific details, including the locations on site and the elevations, can be submitted to the LPA as a condition of planning consent.

Reptiles and amphibians (including great crested newts)

The main habitats within the development site that are considered to support reptiles and amphibians are the hedgerows bases and field margins. Buffers to the hedgerows will be retained and protected outside of the operation and construction area. Precautionary working is recommended within Section 7.4 of the report and this is satisfactory and I also consider the precautionary measures outlined in Section 7.7 to be applicable to reptiles and amphibians too.

Badger and hedgehogs

Evidence of badgers, in the form of latrines, was found within the site, however no setts were identified. An updated badger survey is to be carried out prior to commencement of the works and the method statement will be modified accordingly if there are any changes to badger activity. The precautionary working currently outlined within

the ecology report is satisfactory and this can also be applicable to hedgehogs. However, the CEMP-B report (requested below) will need to outline the remedial action to be taken if there are found to be changes to badger activity once the pre-commencement survey has been undertaken.

Hedgehog gaps will need to be created through any fencing of the solar farm. The locations of these gaps/holes should be shown within the details submitted as a condition of planning consent (see relevant condition below).

Dormice

The ecology report states that habitats were assessed on the suitability for dormice but no further details were provided. As the scheme includes limited areas of hedgerow to be removed, I would consider precautionary measures to be appropriate. The CEMP-B report (requested below) should therefore outline precautionary working for dormice.

Habitats and landscaping

The solar array field comprises arable land and improved grassland as well as small areas of woodland and ruderal vegetation. The fields are bordered by native hedgerows. The modified grassland and existing woodland will be retained. The scheme will also include the creation of new areas of scrub, a bund with tall ruderal vegetation, wildflower meadow areas along the corners of fields and new woodland planting. New hedgerows will also be created and one will be enhanced through the infilling using native species. A comprehensive landscaping scheme will now need to be prepared to combine these details together with a 5-year maintenance plan. The landscaping scheme will need to be submitted to the LPA as a condition of planning consent.

A biodiversity net gain metric calculation (using the DEFRA 2.0 Metric) has been carried out. This shows an overall gain of 11.43 habitat units (an increase of 12.56%) through the incorporation of the above habitat creation and enhancement measures. The development also shows an overall gain of 3.46 hedgerow units (an increase of 14.64%). This is considered satisfactory. A Biodiversity Management and Monitoring Plan (BMMP) will need to be prepared to secure the long term management of habitats included within the biodiversity net gain calculations for the length of the development (40 years, as outlined within the Planning Statement). The plan should identify the aims and objectives of management and provide details of the ongoing management of habitats at the site. Before the commencement of the development, the report will need to be submitted to the LPA for approval as a condition of planning consent. This will need to be agreed with the applicant.

A Construction Environmental Management Plan - Biodiversity

(CEMP-B) will also need to be submitted to the LPA as a condition of planning consent to detail how the works will minimise impacts on surrounding ecological features during and immediately after the construction phase. This report will also need to be submitted before the commencement of the development.

I therefore recommend ecological conditions and informatives be added to any permission granted.

Sustainability Checklist Officer

The proposed solar farm would generate 36MWp of renewable energy, the use of which is encouraged in the Sustainability Standards Checklist, and save an estimated 7800 tonnes of CO₂ a year. To ensure the solar farm is as sustainable as possible, the following commitments should be met, in addition to those identified by other environmental specialists:

- o The amount of water required for cleaning PV panels should be minimised and its source identified.
- o Consideration should be given to the use of both hybrid solar panels that can harness energy from sunlight and rainwater; and rainwater collection and harvesting from PV panels.
- o Climate change allowances should be at least 40% and clearly stated in the FRA.
- o Climate resilient species should be incorporated into the planting scheme.
- o A Life Cycle Assessment should be prepared to determine the embodied carbon content of materials over the lifecycle of the solar farm.
- o A Site Waste Management Plan (SWMP) should be prepared to minimise and manage construction waste.
- o Construction materials should be sourced sustainably and construction methods should be sustainable, details of which should be supplied.

Planning assessment - Sustainability

The Sustainability Standards Checklist in planning was approved by Full Council in February 2021. The proposed solar farm has been assessed against the sustainability standards in the checklist. Given that its sole purpose is to generate renewable energy, the proposed scheme is inherently sustainable. A set of recommendations have been put forward to increase the sustainability credentials of the scheme, and these form proposed planning conditions.

OCC Archaeological Services

No Comment Received.

5 Letters of support:

- Great for the environment

- Decarbonisation is an imperative and given West Oxfordshire District Council has declared a climate emergency, it is hard to see how a project of - I think it's a necessity to ensure local areas which are suitable for such developments get the full support required to ensure they can go ahead.
- As well as being an ecologically enhancing and non invasive, non-permanent development, it would also bring a local boost to the surrounding economy and be a real statement of intent from the council.

One letter querying what will happen to the public footpath that runs through the centre of the proposed development as it is used by local people currently.

4 PLANNING POLICIES

OS1NEW Presumption in favour of sustainable development

OS2NEW Locating development in the right places

OS3NEW Prudent use of natural resources

EH2 Landscape character

EH3 Biodiversity and Geodiversity

EH6 Decentralised and renewable or low carbo

EH7 Flood risk

NPPF 2021

The National Planning Policy framework (NPPF) is also a material planning consideration.

5 PLANNING ASSESSMENT

5.1 The application seeks planning permission for the installation and operation of solar farm including associated engineering and infrastructure works at Ducklington Farm. The operational period of the solar farm will be 40 years from the first export of electricity. At the end of this period, the site will be decommissioned.

5.2 The site is located south of Witney and west of the A415 at Ducklington and extends to approximately 46 Hectares. From the A415, the land rises gently to Moulden's Wood. To the east of Ducklington is the River Windrush and, south east of the village a series of many lakes formed from sand and gravel workings. The site is not subject to any national designations. Vehicular access to the site can be gained from two roads off the A415: the Aston Road to the south of the site, and Coursehill Lane to the north. A Public Right of Way (No. 194/15/10) traverses the site in a roughly north-east/south-west alignment. The site is agricultural land, comprising irregularly shaped fields with hedgerow boundaries.

5.3 The application has been submitted following pre-application advice and a screening opinion undertaken has concluded that an Environmental impact Assessment is not required.

5.4 Taking into account planning policy, other material considerations and the representations of interested parties your officers are of the opinion that the key considerations of the application are:

Principle

Use of agricultural land

Impact on the Landscape Character/Visual Amenities of the area

Highway Issues

Flooding and Drainage

Biodiversity

Principle

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

5.6 Policy EH6 'Decentralised and renewable or low carbon energy development (Excepting wind turbines)', supports the principle of renewable energy developments. It goes on to state that such development should be located and designed to minimise any adverse impacts, with particular regard to conserving the District's high valued landscape and historic environment. It also states that in assessing proposals, local issues such as environmental impacts, opportunities for environmental enhancement and potential benefits to host communities need to be considered and satisfactorily addressed. The policy also refers to detailed guidance published in the 'West Oxfordshire Renewable and Low Carbon Energy Guidance and Landscape Capacity Study' (2016). This latter document will be referred to in more detail below.

5.7 The NPPF supports proposals for renewable and low carbon energy. Paragraph 158 states that when determining planning applications for renewable development local planning authorities should not require applicants to demonstrate need for renewable energy and should approve an application if impacts are (or can be made) acceptable. There is also 'Planning Practice Guidance' relating to 'Renewable and Low Carbon Energy'; this sets out the particular planning considerations that relate to large scale ground-mounted solar PV farms, including referencing to landscape and visual impact, heritage assets and greenfield land. Where a proposal involves greenfield land, an LPA will need to consider, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use and/or encourages biodiversity improvements around arrays.

5.8 The Planning Statement advises that the maximum export capacity of the proposed solar farm is up to 36MWp which will make a significant contribution to local renewable energy. This amount has been calculated as sufficient electricity to power around 7,843 homes a year, equivalent to 16% of homes in the district⁸ and saving roughly 7800 tonnes of carbon dioxide per year.

5.9 These benefits would accord with the NPPF's renewable energy provisions, which indicate that the delivery of renewable, low carbon energy is central to the economic, social and environmental dimensions of sustainable development and that local communities have a responsibility to contribute to the generation of such energy amongst other things.

Use of Agricultural Land

5.10 The NPPF advises that account should be taken of the benefits of the best and most versatile (BMV) agricultural land, and where it is necessary to use agricultural land that poorer quality land should be used in preference to that of a higher quality. As noted above, this principle is espoused in PPG relating to solar farms. Best and most versatile is land within grades 1, 2 and 3a of the agricultural land classification.

5.11 The site is not high- grade land: the Agricultural Land Classification (Provisional) map as Grade 3 - 4, and this is corroborated by the post 1988 assessments which show land around Witney and

Ducklington as predominantly Grade 3b. The fields are predominantly pasture and used for grazing. It is proposed to continue sheep grazing on the site following the installation of the solar equipment, thereby retaining the land in agricultural use.

5.12 There are considered to be no available or suitable brownfield sites or areas of lower quality agricultural land suitable for the solar farm development.

Impact on Landscape Character/Visual Amenities of the area

5.13 Policy EH2 of the Local Plan also seeks to protect landscape character and ensure that new development conserves and, where possible, enhances the intrinsic character, quality and distinctive natural and man-made features of the local landscape. This site lies within the Wychwood Project area where special attention and protection will be given to the landscape and biodiversity.

5.14 The West Oxfordshire Renewable and Low Carbon Energy Guidance and Landscape Capacity Study' (2016) states that, "in general terms, there is significant potential for further solar farm development in the district subject to careful consideration of individual development proposals". The report states that very few constraints exist in West Oxfordshire and those that do, such as public rights of way, woodland and rivers, cover a small portion of the district, although sites on best and most versatile agricultural land are likely to be heavily constrained by that fact. This part of the District is identified as being 'more suitable' for solar farms.

5.15 A Landscape and Visual Impact Assessment (LVIA) is submitted with the application. This reviews the character of the site and the wider area, including reference to National Character Areas and local character assessment documents, the West Oxfordshire Landscape Assessment (WOLA) and the Oxfordshire Wildlife and Landscape Study (OWLS). The LVIA notes that the overall site boundary and most of the field compartments within the site are defined by mature continuous hedgerows, the majority of which are at least 2.5-3m in height. From the survey and assessment work undertaken, it has been concluded that the site's zone of visual influence is generally restricted to within an area of approximately 200m of the site, and mostly affects areas to the north, north-east and south-east. Views of the proposed development area are limited to local public rights of way (including footpath 194/15/10 which passes through the site), glimpsed or filtered views from the A415 and Curbridge Road, and some restricted views from residential properties on the edge of Ducklington village and some other properties adjacent to the site.

5.16 Recommended mitigation measures in the LVIA have been incorporated into the design and include:

- Retention of existing site hedgerows for screening and landscape structure; and gapping up where necessary to provide visual screening and habitat continuity;
- Establishment of 10m wide native woodland plantations on the northern & north-eastern boundaries of the site to visually screen the development from Curbridge Road, the A415 and from properties on the edge of Ducklington, and to provide biodiversity enhancement;
- Planting an additional hedgerow along the northern boundary of the south-western development field to supplement the screening potential of recently planted plantation to the north and to provide habitat linkage between exiting site hedgerows and Moulden's Wood;
- Establishment of a new hedgerow adjacent to the water pipeline, to provide additional landscape structure, new habitat and habitat linkage;
- Providing a standoff to the solar arrays from the public footpath running through the site such that the solar panels do not over dominate the footpath route;
- Reverting the arable field to permanent conservation grassland to provide biodiversity enhancement;

- Managing grassland within the development areas to promote floristic diversity and habitat enhancement;
- Planting only native and locally indigenous tree and shrub species to provide biodiversity enhancement;
- Maintaining all field boundary hedgerows at heights in excess of 3m.

5.17 The LVIA concludes that following the initial construction and establishment of mitigation, the longer term impacts in respect of landscape character are likely to be 'negligible' and there is predicted to be significant benefit in terms of landscape structure and biodiversity.

5.18 The County Landscape Officer has commented that the proposed development is large and will by its nature change the landscape character within the site and the surrounding area. The site comprises a number of large open fields, which are bounded by boundary hedgerows and trees. Hedgerows are low in many places allowing views across the site from nearby roads and footpaths. Existing boundary vegetation should be conserved and enhanced to increase screening of the proposed development. In addition, substantial new planting in line with local landscape character guidelines is required along some of the boundaries to mitigate the impact of the development in views. Mitigation planting is proposed and outlined in the Layout Plan. It is difficult to judge whether the proposed planting will be sufficient to effectively screen the development in views. Existing and proposed vegetation along some of the boundaries (including the PROW crossing the site) looks rather limited and consideration should be given as to whether this could be strengthened. I also consider it important that adequate long-term management of existing and new planting is secured as part of any potential consent. This should be coordinated with any ecological requirements. I recommend that conditions for a Landscaping Scheme, Landscape Management Plan and for Lighting are added to any potential planning consent. Planting will also take several years to mature and I recommend that planting is carried out at the earliest opportunity. Although the scheme is not expected to require much in the way of lighting a Lighting condition should be added to any potential consent to keep lighting to a minimum, and to ensure the protection of the natural landscape and the dark skies.

5.19 In summary, whilst it is acknowledged that the proposed development would have an adverse effect on the character of the countryside, the retention of existing planting and proposed mitigation measures would help to mitigate this impact.

Highway Issues

5.20 The majority of vehicular movements associated with the development would be during the construction and decommissioning periods. Safe and suitable access routes for construction vehicles have been identified within the Construction Traffic Management Plan submitted with the application. This considers the local highway network, the level of vehicle movements associated with the development, and arrangements for the construction period, anticipated to be a maximum of 16 weeks.

5.21 A temporary construction compound is proposed in the south of the site, accessed from Aston Lane, and a secondary drop off point in the north of the site, accessed off Coursehill Lane. Each of these areas would be of a size sufficient to allow delivery vehicles to enter and exit in forward gear. Vehicle deliveries are to be by pre-arrangement, and vehicles routed via the north, using A40 and A415 (avoiding weight restrictions at Newbridge).

5.22 During the operational period, there would be occasional visits to the site for management and maintenance purposes, most likely in a small van. The Planning Statement advises that the proposed

development would not compromise highway safety and it would have a negligible impact upon the local highway network.

5.23 The County's Highway Officer has raised no objection to the application and has commented that it is during the circa 16 week construction phase that significant trip generation shall be felt where site enabling works such as fencing, site accommodation structures, delivery of plant and installation shall be undertaken. That being said, OCC Highways are confident that even the construction related traffic shall not detrimentally affect the operation and safety of the local highway. The submitted CTMP is deemed sufficient.

Flooding and Drainage

5.24 The Site lies entirely in Flood Zone 1 with a very low risk of flooding. The application is supported by a Flood Risk Assessment, which also provides a Surface Water Management Plan. The FRA is informed by site specific infiltration tests. It confirms that runoff from solar panels is able to infiltrate and no mitigation is required for these elements. The only impermeable areas are ISO containers, transformer bases, and the DNO/Customer substations. Runoff from these will be directed to gravel areas adjacent to the impermeable areas. The gravelled areas will serve as infiltration areas. The FRA concludes that with these measures in place, the proposed development would be in accordance with the requirements of the NPPF.

5.25 Following the submission of additional drainage information, the County Council, as the Local Lead Flood Authority, has raised no objection to the application.

Biodiversity

5.26 Policy EH3 of the local plan seeks to protect and enhance biodiversity in the district to achieve an overall net gain in biodiversity and minimise impacts on geodiversity. This includes protecting and mitigating for impacts on priority habitats, protected species and priority species, both for their importance individually and as part of a wider network, and that all developments retaining features of biodiversity value on site and incorporating biodiversity enhancement features.

5.27 The application is accompanied by an Ecological Impact Assessment which confirms that the site is not in a designated wildlife area, and provides an assessment in regard to protected species. The Assessment provides for sensitive working methods to be used, and predicts that, "in particular, the proposed development will benefit: the Moulden's Wood LWS, invertebrates, common reptiles and amphibians, farmland birds, foraging, commuting and roosting bats, badger, polecat (if present), harvest mice (if present), brown hare and hedgehog. It concludes that there will also be an overall net increase in hedgerow, woodland and grassland habitat." The Assessment has used the Defra Metric to calculate the biodiversity net gain of the proposed development, and concludes that overall, the proposed development demonstrates a net gain in biodiversity of greater than 10%, 1.64 % increase for habitats and a 13.64 % increase in hedgerow biodiversity.

5.28 Following the request for further information, the Council's Biodiversity Officer has no objection to the application subject to conditions to ensure biodiversity is protected and a biodiversity net gain is achieved.

Impact of heritage assets

5.29 The site is not subject to any heritage designations, and the nearest are listed buildings within Ducklington. All of those are in the eastern part of the village and separated from the solar farm site by other buildings nearer to the A415, therefore the solar farm will not affect the settings of these buildings.

5.30 The site is located in an area of considerable archaeological interest immediately south east of two Bronze Age round barrows, identified from cropmarks. In this same area evidence of Iron Age settlement was recorded during the construction of the Ducklington Bypass which forms the northern edge of this proposal. Neolithic or Bronze Age pottery has also been recorded from this part of the site itself. A further series of Bronze Age barrows and linear features has been recorded from cropmarks 700m south of the proposed site. A late Bronze Age burial has been recorded during archaeological excavation 450m east of the proposed site along with Saxon and medieval features.

5.31 An archaeological Evaluation of the site has been undertaken which identified a number of archaeological features across the site with some of the identified archaeological features dating to the prehistoric and Roman periods, whilst many remained undated.

5.32 The comments of the County Archaeological Officer are still awaited and Members will be updated at Committee.

Other Matters

Glint and glare - aircraft safety

5.33 When solar farms were first developed, there was concern that reflections from the panels may have adverse effects on visibility for pilots, and therefore aircraft safety is a consideration within PPG. The proximity of an airfield is not, per se, a constraint to a solar farm: solar panels are recognised to be absorptive by design (not reflective), and there are solar installations safely operating in close proximity to runways.

5.34 The site is approximately 6 km east of Brize Norton airfield. As part of pre-application consultation work, the MoD was asked for comment on the proposed solar farm at Ducklington and has confirmed to the applicant that it had "no safeguarding concerns with the proposed PV farm".

Conclusion

5.35 In conclusion, the proposed development would make a significant contribution to meeting targets for renewable energy and would contribute to the reduction of greenhouse gases. There are considered to be no available or suitable brownfield sites nor areas of lower quality agricultural land suitable for the solar farm development. Nevertheless, it is recognised that the proposal, would have an impact on the landscape including views from local public rights of way and more distant public vantage points but this impact can be mitigated by appropriate landscaping. Subject to no objections being raised from the County Archaeological Officer, the application is recommended for permission.

6 CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

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

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

3. Development shall be carried out in accordance with the submitted construction traffic management plan which shall be adhered to throughout the period of construction.

REASON: In the interests of Highway safety.

4. The development shall be carried out in accordance with the submitted and approved Flood Risk Assessment and Surface Water Management Plan, Report Ref: 238/SP05 v2 dated July 2021 and shall be maintained in accordance with the management plan thereafter.

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

5. The development hereby approved shall deliver a 12.56% increase in biodiversity units (as measured in the biodiversity metric received on the 28th October 2021) and shall be carried out in strict accordance with the following documents:
 - i) The recommendations in Section 7 of the Ecological Impact Assessment, prepared by Corylus Planning & Environmental Ltd., and dated 24th March 2021; and
 - ii) The Biodiversity Net Gain Assessment report, prepared by Corylus Planning & Environmental Ltd., and dated 15th October 2021, to secure the delivery of 11.43 habitat units (an increase of 12.56%) and 3.46 hedgerow units (an increase of 14.64%);

All the recommendations shall be implemented in full according to the specified timescales, unless otherwise agreed in writing by the local planning authority. A biodiversity net gain audit report shall be submitted to the local planning authority within 12 calendar months following the substantial completion of the relevant landscaping works.

REASON: To ensure that bats, birds, reptiles, amphibians, dormice, badger and hedgehogs are protected in accordance with The Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 as amended, Circular 06/2005, paragraphs 174, 179 and 180 of the National Planning Policy Framework (Chapter 15), Policy EH3 of the West Oxfordshire Local Plan 2031 and in order for the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

6. Before the development first comes into use, details of the provision of bat roosting features (e.g. bat boxes/tubes) and nesting opportunities for birds (e.g. barn owls boxes and general purpose bird boxes), either pole-mounted and/or mounted onto mature trees, as well as hedgehog gaps within any new fences/walls, shall be submitted to the local planning authority for approval. The details shall include a drawing/s showing the types of features, their locations

within the site and their positions on the elevations of the buildings, and a timetable for their provision. The approved details shall be implemented before the dwelling/s hereby approved is/are first occupied and thereafter permanently retained.

REASON: To provide additional roosting for bats and nesting birds and to ensure continued permeability for hedgehogs as biodiversity enhancements in accordance with paragraphs 174, 179 and 180 of the National Planning Policy Framework, Policy EH3 of the West Oxfordshire Local Plan 2031 and Section 40 of the Natural Environment and Rural Communities Act 2006.

7. Before the development hereby approved is first brought into use, details of external lighting shall be submitted to and approved in writing by the local planning authority. The details shall show how and where external lighting will be installed (including the type of lighting), so that it can be clearly demonstrated that light spillage into wildlife corridors will be minimised as much as possible. The illuminance of the off-site ancient woodland and on-site hedgerows shall be avoided and no external lighting shall be installed alongside these features.

All external lighting shall be installed in accordance with the specifications and locations set out in the approved details, and these shall be maintained thereafter in accordance with these details. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

REASON: To protect foraging/commuting bats in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 (as amended), Circular 06/2005, paragraphs 174, 179 and 180 of the National Planning Policy Framework, Policy EH3 of the West Oxfordshire Local Plan 2031 and in order for the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

8. Before the site first comes into use, a comprehensive landscape scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include, but not necessarily be limited to the following, biodiversity enhancements:
 - The creation and enhancement of hedgerows using native, locally characteristic species;
 - The creation of areas of wildflower grassland;
 - The creation of mixed scrub;
 - Woodland planting using native, locally characteristic species;
 - The creation of a bund planted with tall ruderal vegetation; and
 - A 5-year after-care period maintenance plan.

The scheme must show details of all planting areas, tree and plant species, numbers and planting sizes. The proposed means of enclosure and screening should also be included, together with details of any mounding, walls and fences and hard surface materials to be used throughout the proposed development.

The entire landscaping scheme shall be completed by the end of the planting season immediately following the completion of the development or the site being brought into use, whichever is the sooner.

REASON: To enhance the site for biodiversity in accordance with paragraphs 174, 179 and 180 of the National Planning Policy Framework, Policy EH3 of the West Oxfordshire Local Plan 2011-2031 and in order for the Council to comply with Section 40 of the Natural Environment and Rural Communities Act 2006.

9. If within a period of five years from the date of planting of any tree/hedge/shrub that tree/hedge /shrub, or any replacement, is removed, uprooted or destroyed, or dies, or becomes seriously damaged or defective, another tree/hedge /shrub of the same species and size as that originally planted shall be planted in the same location as soon as reasonably possible and no later than the first available planting season, unless otherwise agreed in writing by the local planning authority.

REASON: To ensure effective delivery of approved landscaping and to secure enhancements for biodiversity in accordance with paragraphs 174, 179 and 180 of the National Planning Policy Framework, Policy EH3 of the West Oxfordshire Local Plan 2031 and in order for the Council to comply with Section 40 of the Natural Environment and Rural Communities Act 2006.

10. All tree protection works shall be carried out in accordance with the submitted Tree Survey, Arboricultural Impact Assessment, Tree Protection Plan and Arboricultural Method Statement dated March 2021.

REASON: To ensure the safeguard of features that contribute to the character and landscape of the area.

11. No development shall take place (including ground works and vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include, but not necessarily be limited to, the following:
- i. Risk assessment of potentially damaging construction activities;
 - ii. Identification of 'biodiversity protection zones';
 - iii. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements for nesting birds, roosting bats, reptiles, amphibians including great crested newts, badger, hedgehogs and dormice). Any remedial actions (e.g. for badger) should be outlined. Measures to avoid the root protection zones of the adjacent ancient woodland shall also be identified;
 - iv. The location and timing of sensitive works to avoid harm to biodiversity features (e.g. daylight working hours only starting one hour after sunrise and ceasing one hour before sunset);
 - v. The times during construction when specialists ecologists need to be present on site to oversee works;
 - vi. Responsible persons and lines of communication;
 - vii. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person(s);
 - viii. Use of protective fences, exclusion barriers and warning signs, including advanced installation and maintenance during the construction period; and
 - ix. Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

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

REASON: To ensure that protected and priority species (amphibians, reptiles, badgers and hedgehogs) and priority habitats are safeguarded in accordance with The Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 as amended, The Hedgerow Regulations 1997, Circular 06/2005, paragraphs 174, 179 and 180 of

the National Planning Policy Framework, EH3 of the West Oxfordshire Local Plan 2031 and in order for the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

12. A report prepared by a professional ecologist / the Ecological Clerk of Works or similarly competent person certifying that the required mitigation and/or compensation measures identified in the CEMP-B have been completed to their satisfaction, and detailing the results of site supervision and any necessary remedial works undertaken or required, shall be submitted to the Local Planning Authority for approval within 3 months of the date of substantial completion of the development or at the end of the next available planting season, whichever is the sooner. Any approved remedial works shall subsequently be carried out under the strict supervision of a professional ecologist following that approval.

REASON: To ensure that protected and priority species (birds, bats, amphibians, reptiles, badgers and hedgehogs) and priority habitats are safeguarded in accordance with The Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 as amended, The Hedgerow Regulations 1997, Circular 06/2005, paragraphs 174, 179 and 180 of the National Planning Policy Framework, Policy EH3 of the West Oxfordshire Local Plan 2031 and in order for the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

13. A 40-year Biodiversity Management and Monitoring Plan (BMMP) shall be submitted to, and approved in writing by the Local Planning Authority, before the commencement of the development hereby approved. The plan shall include, but not necessarily be limited to, the following information:
 - i. Description and evaluation of features to be managed; including locations shown on a site map;
 - ii. Landscape and ecological trends and constraints on site that might influence management;
 - iii. Aims and objectives of management, including ensuring the delivery of the 12.56% biodiversity net gain target;
 - iv. Appropriate management options for achieving the aims and objectives;
 - v. Prescriptions for all management actions;
 - vi. A work schedule matrix (i.e. an annual work plan) capable of being rolled forward over 5 or 10 year periods;
 - vii. Details of the body or organisation responsible for implementation of the plan;
 - viii. Ongoing monitoring of delivery of the habitat enhancement and creation details to achieve net gain as well as details of possible remedial measures that might need to be put in place;
 - ix. Timeframe for reviewing the plan; and
 - x. The submission of a monitoring report to the local planning authority at regular intervals, e.g. every 5 years.

The BMMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body (ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that the conservation aims and objectives of the BMMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented. The BMMP shall be implemented in full in accordance with the approved details.

REASON: To secure the delivery of the biodiversity net gain outcome for the required 30 year period and appropriate management of all habitats in accordance with the NPPF (in particular Chapter 15), Policy EH3 of the West Oxfordshire Local Plan 2031 and in order for the council to comply with Section 40 of the Natural Environment and Rural Communities Act 2006.

14. Should the solar panels not be used continuously for the production of energy for a period of six months, the panels, support structures and associated buildings shall be removed in their entirety and the land shall be restored to its former condition in accordance with a scheme of work submitted to and approved in writing by the Local Planning Authority.

REASON: To prevent the retention of development in the countryside that is not being used for its intended purpose.

15. Not less than 12 months before the cessation of the development hereby permitted, a Decommissioning Method Statement (DMS) shall be submitted to and approved in writing by the Local Planning Authority. The Decommissioning Method Statement shall include details of the removal of the panels, supports, inverters, cables, buildings and all associated structures and fencing from the site, and a timetable. The DMS shall also include details of the proposed restoration. The site shall be decommissioned in accordance with the approved DMS and timetable within 6 months of the expiry of the 40 year period of planning permission.

REASON: In the interests of visual amenity to accord with the NPPF

Notes to applicant

- I Please note that this consent does not override the statutory protection afforded to species protected under the terms of the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017 (as amended), or any other relevant legislation such as the Wild Mammals Act 1996 and Protection of Badgers Act 1992.

All British bat species are protected under The Conservation of Habitats and Species Regulations 2017 (as amended), which implements the EC Directive 92/43/EEC in the United Kingdom, and the Wildlife and Countryside Act 1981 (as amended). This protection extends to individuals of the species and their roost features, whether occupied or not. A derogation licence from Natural England would be required before any works affecting bats or their roosts are carried out.

Where the presence of roosting bats have been confirmed, updated surveys are required if the period of time between the survey and commencement of development extends more than 12 months. Updated surveys are required to identify any changes to the bat roosting status on site.

All British birds (while nesting, building nests, sitting on eggs and feeding chicks), their nests and eggs (with certain limited exceptions) are protected by law under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000. Works that will impact upon active birds' nests should be undertaken outside the breeding season to ensure their protection, i.e. works should only be undertaken between August and February, or only after the chicks have fledged from the nest.

In the event that your proposals could potentially affect a protected species, or if evidence of protected species is found during works, then you should seek the advice of a suitably qualified

and experienced ecologist and consider the need for a licence from Natural England prior to commencing works (with regard to bats).

The Solar Park Impacts on Ecosystem Services (SPIES) tool may provide a useful point of reference for opportunities to enhance the biodiversity and natural capital value of the site.

A stand-alone barn owl box would also be a significant enhancement of the site and the applicant is advised to obtain guidance from the Barn Owl Trust website on the design and location of such a box <https://www.barnowltrust.org.uk/barn-owl-nestbox/barn-owl-pole-nest-box/>. The applicant may also wish the box to be monitored and the contact for this is the Oxfordshire Ornithological Society - contact Dr Alan Larkman, Conservation Officer for more information by email: conservation@oos.org.uk or visit the website <http://www.oos.org.uk/committee.php>

There is a low risk that great crested newts (GCN) may be present at the application site. West Oxfordshire District Council considers it would be unreasonable to require the applicant to submit a survey because this could be considered disproportionate to the likely impacts of the development. However, the application site lies within a red impact zone as per the modelled district licence map, which indicates that there is highly suitable habitat for GCN within the area surrounding the application site. Therefore, anyone undertaking this development should be aware that GCN and their resting places are protected at all times by The Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended). Planning permission for development does not provide a defence against prosecution under this legislation or substitute the need to obtain a protected species licence if an offence is likely. If a GCN is discovered during site preparation, enabling or construction phases, then all works must stop until the advice of a professional/suitably qualified ecologist and Natural England is obtained, including the need for a licence. Any trenches left overnight should be covered or provided with ramps to prevent GCN from becoming trapped. Any building materials such as bricks, stone etc. should be stored on pallets to discourage GCN from using them as shelter. Any demolition materials should be stored in skips or similar containers rather than in piles on ground.

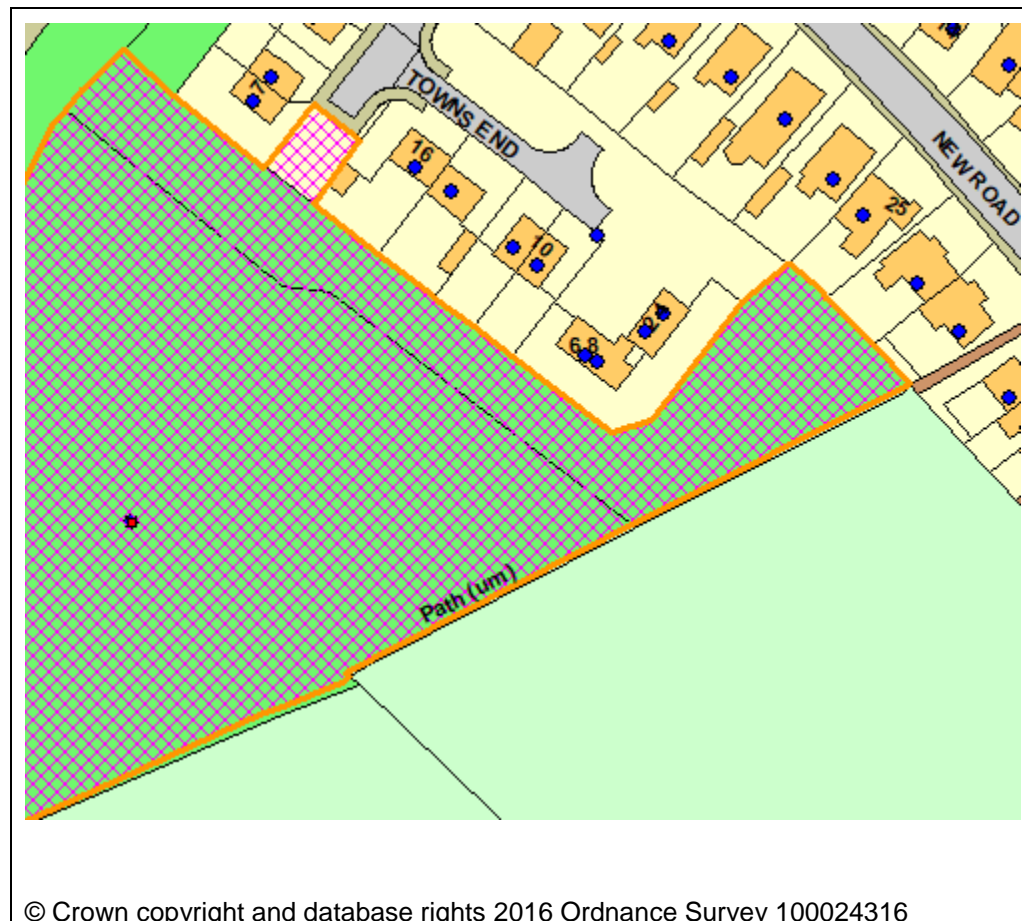
Contact Officer: Joan Desmond

Telephone Number: 01993 861655

Date: 16th February 2022

Application Number	21/02320/FUL
Site Address	Land South Of Giernalls Road Hailey Oxfordshire
Date	16th February 2022
Officer	Abby Fettes
Officer Recommendations	Provisional Approval
Parish	Hailey Parish Council
Grid Reference	434976 E 212699 N
Committee Date	28th February 2022

Location Map



Application Details:

Erection of 22 dwellings with associated access, landscaping, open space and infrastructure. (Amended plans).

Applicant Details:

Sovereign Housing Association
Sovereign House
Basing View
Basingstoke
RG21 4FA

I CONSULTATIONS

WODC Planning Policy
Manager

No Comment Received.

Major Planning Applications
Team

Transport
No objection subject to conditions and SI06/278

LLFA
Objection more information required

Education

This proposed development is served by schools in the Witney planning area. Expansion of both primary and secondary school capacity is expected to be required in Witney due to the large scale housing growth underway and planned. However, due to the small scale of the proposed development, the need for expansion cannot be directly related to this development, and no contribution is sought towards the cost of school expansion.

ERS Air Quality

No Comment Received.

ERS Env. Consultation Sites

Thank you for consulting our team, I have looked at the application in relation to contaminated land and potential risk to human health.

A factual Geo-environmental Report has been submitted with the application and states the following.

"Chemical laboratory testing results for EPH and PAHs found no elevated concentrations. Low concentrations of metals were recorded in all samples; however, elevated concentrations of arsenic were recorded in one sample (TP3 at 1.7m) and beryllium in three samples (TP1 at 0.2m, TP2 at 1.7m and TP3 at 0.7m). Given the sensitivity of the proposed development land use further assessment is advised to determine if a significant risk to human health is present."

It is agreed that further investigation is required. Please consider adding the following condition to any grant of permission.

1. No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any significant contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority before any development begins
2. The Remediation Scheme, as agreed in writing by the Local Planning Authority, shall be fully implemented in accordance with the approved timetable of works and before the development hereby permitted is first occupied. Any variation to the scheme shall be agreed in writing with the Local Planning Authority in advance of works being undertaken. On completion of the works the developer shall submit to the Local Planning Authority written confirmation that all works were completed in accordance with the agreed details.

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

Reason: To ensure any contamination of the site is identified and appropriately remediated.

Relevant Policies: West Oxfordshire Local Planning Policy EH8 and Section 15 of the NPPF.

WODC Env Health - Lowlands

I have No Objection in principle.

WODC - Arts

No Comment Received.

WODC - Sports

Off-site contributions are sought for sport/recreation facilities for residents based on the cost of provision and future maintenance of football pitches (the cheapest form of outdoor sports facility) over a 15 year period at the Fields in Trust standard of 1.6ha per 1,000 population.

Based on a football pitch of 0.742ha, a provision cost of £100,000 (Sport England Facility Costs second Quarter 2021) and a commuted maintenance cost of £250,500 per pitch (Sport England Life Cycle Costings Natural Turf Pitches second Quarter 2021), this would equate to £710,512 per 1,000 population

or £1,705 per dwelling (at an average occupancy of 2.4 persons per dwelling).

Contributions

£1,705 x 22 = £37,510 off-site contribution towards sport, leisure and recreation facilities within the catchment. This is index-linked to second quarter 2021 using the BCIS All in Tender Price Index published by RICS.

WODC Housing Enabler

The site falls within the medium value affordable housing zone as defined in the Local Plan 2031 adopted in September 2018 and triggers a requirement under Policy H3 - Affordable Housing, to provide for 40% of the completed dwellings as affordable. The application confirms that all 22 (100%) of the dwellings would be provided as affordable housing and therefore make a significantly increased contribution. The applicant has indicated that they wish to engage with WODC to determine the final tenure mix.

Of those applicants registered on the Council's Homeseeker+ system that have indicated a wish to rent a home in Hailey, I can confirm there are 57 people on the list.

In addition to the 57 applicants, there are a further 2897 applicants on the overall waiting list who could benefit from the development of this site at time of writing.

This must also be seen in the context of the Oxfordshire Strategic Housing Market Assessment (SHMA) 2014 (partially updated in 2016) which identifies the need for approximately 274 affordable homes per year in West Oxfordshire from 2013-2031 i.e. a total of 4,932 units. Affordable housing (as defined in the National Planning Policy Framework) is 'housing for sale or rent for those whose needs are not met by the market'.

The affordable housing delivered on this site would make an important contribution to meeting local housing need.

WODC Landscape And
Forestry Officer

No Comment Received.

TV Police-Crime Prevention
Design Advisor

Defensible space

I understand that existing dense vegetation surrounding this development is being retained, and that the topography of the site limits layout options available to the applicant. However, I have significant concerns that excessive vulnerable side and rear boundaries are exposed throughout this site (highlighted yellow below). These boundaries are the point of entry for the vast majority of residential burglaries, and must be robustly protected from unauthorised entry. I ask that defensible space and planting to a depth

of at least 1m must be provided to all private boundaries abutting the public realm and I recommend thorny species such as *Pyracantha coccinea*, which provides a very difficult to scale but attractive boundary.

As per the diagram below, I have fundamental concerns that unrestricted access is possible to all rear boundaries, which are left very vulnerable due to a lack of surveillance over them. Whilst access for maintenance is required, I ask that control measures to prevent unauthorised access are provided, in the form of robust fencing or hedging with robust non-climbable and lockable gates, preventing access currently possible as indicated by the red arrows below. Further, I ask that the PROW is segregated from vulnerable boundaries by mature dense hedge planting as indicated by the purple line. Should any existing hedgerows and planting be lost or damaged during construction, I ask that these are replaced with mature hedging of the same density.

Blank elevations

There are numerous blank elevations/gable ends throughout the development (Plots 1, 2, 21, 22 for example), reducing surveillance over parking and the public realm. Windowless elevations have a tendency to attract crime and anti-social behaviour. I ask that blank gable end walls are fitted with a window from an active room within the dwelling to provide sufficient level of surveillance to the street and surveillance over the parking area to its boundary.

Lighting

I am unable to find a lighting plan within the current application. Lighting throughout the development should meet the general standards of BS5489-1: 2020. I ask that a lighting plan is submitted to the LPA and approved prior to permission being granted.

Thames Water

Waste Comments

Thames Water would advise that with regard to FOUL WATER sewerage network infrastructure capacity, we would not have any objection to the above planning application, based on the information provided.

The application indicates that SURFACE WATER will NOT be discharged to the public network and as such Thames Water has no objection, however approval should be sought from the Lead Local Flood Authority. Should the applicant subsequently seek a connection to discharge surface water into the public network in the future then we would consider this to be a material change to the proposal, which would require an amendment to the application at which point we would need to review our position.

There are public sewers crossing or close to your development. If you're planning significant work near our sewers, it's important that you minimize the risk of damage. We'll need to check that your development doesn't limit repair or maintenance activities, or inhibit the services we provide in any other way. The applicant is advised to

read our guide working near or diverting our pipes.
<https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-nearor-diverting-our-pipes>.

Water Comments

On the basis of information provided, Thames Water would advise that with regard to water network and water treatment infrastructure capacity, we would not have any objection to the above planning application.

Thames Water recommends the following informative be attached to this planning permission. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

Oxford Clinical Commissioning Group NHS	No Comment Received.
Ecologist	Ongoing discussions regarding BNG, landscaping and conditions.
Climate	Comments passed to agent for comment
WODC Env Services - Waste Officer	See standing advice for waste requirements.
Wychwood Project	No Comment Received.
Parish Council	Hailey Parish Council looks forward to this development going forward and providing much needed affordable housing in the village - subject to the conditions detailed below.

Recent Planning History

2016 - Outline residential development for 25 dwellings (16/01540/OUT) This planning application comprised the current Site and a similar sized portion of land to the south comprising 2.2 hectares in total. The application was refused by WODC for reasons relating to consideration that the scale and form of development would enclose the public open space to the south and potentially impact on the associated setting of the Conservation Area, AONB and Public Right of Way. An appeal was submitted following this refusal but was later withdrawn.

In 2017 an Outline planning application (17/00966/OUT) was approved and proposed 9 large and predominantly detached dwellings. There was no affordable housing provision. This application did not include any provision for access to the public open space to the south and consequently had limited potential impact on the

associated setting of the Conservation Area.

The proposed Scheme

The scheme now being proposed by Sovereign Housing Association (21/02320) seeks to deliver 22 new homes making better use of the under-utilised site. All of the new homes will be managed by Sovereign as affordable.

Hailey Neighbourhood Development Plan (HNDP)

The Sovereign scheme aligns with the housing objectives of the above plan which focuses on the need for more young people and families to be able to live in the village. This is currently beyond the reach of many because it is outside their financial means.

There are no identified housing allocations within the HNDP (they were removed through the examination process) and it defers to the Core Strategy on housing delivery policies and the constraints of the Hailey Conservation Area: Policy OS2 'locating development in the right places' states that villages, such as Hailey, are suitable for limited development which respects the village character and local distinctiveness and would help to maintain the vitality of these communities. The HNDP is also supportive of improving affordability in housing delivery. The proposed scheme replaces nine large market houses with 22 affordable houses -including a mix of smaller units. This approach is consistent with the objectives of the Hailey Neighbourhood Development Plan.

Discussions with Sovereign

The Parish Council declared general support for the scheme and confirms that it:

- supports the provision of additional affordable housing within the village
- would like to see some social rented accommodation included in the affordable housing scheme.
- would like to see construction materials avoiding the use of red brick or blue slate - consistent with its location at the edge of the Conservation Area location.
- would like to see any on-site open space properly maintained and landscaped to a high standard
- has concerns over the impact of construction traffic in Giernalls Road and asks that it is made good after the construction traffic has left.
- would like to see a speed limit of 20mph for lorries passing as children play in that area.
- Insists that the bridleway is maintained as it is, an important PRoW
- suggested that the development make best use of the adjacent PRoW and provide good links to it - particularly via the south east corner.

Objection

The Parish Council OBJECTS to one element of the proposal - the

inclusion of a spur road in the scheme.

- The spur road is unnecessary to the proposed development as it does not go anywhere and consumes land that could be utilised for additional affordable homes.

- It would provide a 'gateway' to further development of the field to the south of this proposal. This field is adjacent to the Conservation Area and the Recreation Ground. Removal of the spur road would release additional land that could enable an expansion of the existing scheme

- o A spur road was NOT included in the granted outline planning permission for 9 dwellings (17/00966/OUT)

- o A previous application (16/01540/OUT) to develop this field was refused by WODC because the scale and form of development "would enclose the public open space to the south (the recreation ground) and impact on the associated setting of the Conservation Area, AONB and Public Right of Way".

- o In 2019, another site adjacent to the Conservation Area went to Appeal (APP/D3125/W/18/3202562) Development of land for 50 dwellings on the opposite side of Priest Hill Lane to the proposed site was refused. The Inspector's conclusions included the following statement:

The proposal would harm the setting of Hailey Conservation Area, a matter which carries great weight. It would also damage the character and appearance of the area, harm to which I have given significant weight.

In this respect paragraph 170(b) of the NPPF makes it clear that planning decisions should recognise the intrinsic character and beauty of the countryside. On balance the site is in a sustainable location for the development proposed, but this circumstance and the benefits which I have identified, do not outweigh the harm which would be caused. Material considerations do not indicate that the decision on this appeal should be taken other than in accordance with the Development Plan.

Conclusion

Given the weight of the above refusals and rejections, development of the field to the south of the proposal (adjacent to the Conservation Area and Recreation Ground) is highly unlikely. Any proposed development of this field to the south would be contrary to all previous decisions by WODC and the Inspectorate.

It is therefore proposed that the planned spur road is removed from this proposal and the developer is requested to redesign the site to include additional affordable housing units on the land released.

Request for S106 funding

The proximity of the site - adjacent to the recreation ground, children's playground, Village Hall and BMX track should be regarded as a benefit of the scheme and as such it the Parish Council is not seeking any S106 funding for any on-site play space.

Hailey Parish Council has a project to replace Hailey Village Hall and

the Sports Pavilion, both located at the Recreation Ground, Hailey, OX29 9UA.

A conservative estimate of 2021 cost after inflation is ca £800,000
Capital contribution is sought towards the above new Village Hall costs.

Sports pavilion

Q2 2020 estimate from Sports England² for a 75m² two changing room plus officials' sports pavilion (traditional construction) is £265,000.

Capital contribution is also sought towards the Sports pavilion costs.

Parish Council

Deadline for comments is 21st February so any further comments from the PC will be reported in the additional representations report.

Major Planning Applications Team

Amended Plans

OCC to provide further comments by 22.02.22 so they will be reported in the Additional representations report.

2 REPRESENTATIONS

2.1 Three letters of representation have been received objecting on the following grounds:

Whilst I completely support the need for local Social and affordable housing, I strongly believe that the area selected must have the infrastructure to support it.

Hailey School: This is already oversubscribed. Transport links to the nearest schools

Finstock/Leaffield/Witney are non existent at key school times.

Walking/Cycling safely to the nearest school is not possible.

This road included within the plan doesn't go anywhere and unfortunately looks like an opening for further development into the field south of your proposed plan. This again is objectionable.

22 dwellings in this location/site is too many. A previous application for 9 dwellings was granted and I feel this is a more appropriate size for the area and would have no objection to a smaller number if other concerns (below) are addressed.

Giernalls Road is already in a very poor state of repair and construction traffic and increased local traffic will have an extremely detrimental effect.

There is no mention of traffic management for the approach to the proposed development.

Residents of Giernalls Rd are very aware that traffic from Towns End and New Road speed up along the straight of Giernalls Rd, putting children and older residents' safety at risk.

I would like to see chicanes in place to slow additional traffic. In addition the junction with the main road is already dangerous due to poor parking and visibility.

Development will be extremely disruptive to residents so must improve conditions in the long run, not make things worse in order to promote good neighbourliness.

Insufficient infrastructure.

No shop in the village, Town centre cannot be reached on foot without crossing fast B road 3 times.

Car required to access doctors/medical facilities.

Priest Hill Lane regularly floods. This would be exacerbated by more development.

If fewer dwellings, more green space can be retained

The number of houses is greater than any other proposal that has been made for this site and that the number is not in keeping with the size of other village developments. The number of houses is far in excess of the needs of the village and should not be used to bolster the housing stock for the district or even County councils. The houses should be a mix of social and shared ownership to allow village people to get on the housing market. As this development is in excess of the immediate need for the village the development should be split into two phases over a number of years to allow a following generation a chance of a village house. Giernalls Road needs parking restrictions in place for the first 50 metres at the junction with the B4022 through the village as you always have to enter the road from the main road on the wrong side of the road due to parking which can be right up to the junction. The speed limit should also be reduced to 20 mph for its length as traffic continuing into Townsend and New Road travel at excessive speeds and is a danger to other traffic and pedestrians. This development should have its own sewage lateral connection to the main sewer running in Priest Hill Lane. The current one for Fishers Closer and Townsend all run through gardens in Giernalls Rd and have been put under increased pressure with these developments, which has in the past caused flooding in my garden and the field below in Priest Hill Lane. Traffic calming measures for the B4022 should be offset against this development. Traffic enters the village via Finstock far in excess of the 30 mph speed limit. The line of vision northwards is very restricted by the road curve and hill giving very little time in which to pull out across the road without traffic bearing down on you. There should not be a spur Road put in this development as this will lead to further applications for housing.

3 APPLICANT'S CASE

3.1 The planning statement is concluded as follows:

The proposed development of 22 homes, as part of an affordable housing led scheme, on the site will make a significant contribution to meeting the need for affordable housing in Hailey and the District generally especially noting that the affordable housing waiting list in the District currently has circa. 2,000 applicants.

The principle of development is supported by Policies OS2 and H2 of the Local Plan which sets out that villages such as Hailey are suitable for limited development which respect local character and local distinctiveness and would help to maintain the vitality of these communities. In principle support was expressed through the consultation process for the delivery for affordable housing and in principle support for development of the Site generally was outlined in pre-application advice from WODC (detailed in Section 5). It is recognised that such housing is much needed in the village and will help maintain viability of the local community.

The principle of development is also reinforced by virtue of the previously approved planning application for 9 market dwellings on the Site. The current application seeks to improve on this and instead deliver 22 affordable homes alongside a central area of open space.

The application is supported by a range of technical reports which set out the suitability of the Proposed Development including, the proposed landscaping scheme and associated achievement of biodiversity net gain. This evidence sets out that the Proposed Development would not give rise to adverse impacts to warrant its refusal.

The Proposed Development is fully in accordance with Development Plan policies relating to a range of considerations and against this background, and in accordance with the presumption in favour of sustainable development, this application should be granted.

4 PLANNING POLICIES

OSINEW Presumption in favour of sustainable development

OS2NEW Locating development in the right places
 OS3NEW Prudent use of natural resources
 OS4NEW High quality design
 OS5NEW Supporting infrastructure
 H2NEW Delivery of new homes
 H3NEW Affordable Housing
 H4NEW Type and mix of new homes
 EH2 Landscape character
 EH7 Flood risk
 EH10 Conservation Areas
 T1NEW Sustainable transport
 T3NEW Public transport, walking and cycling
 T4NEW Parking provision
 NPPF 2021
 DESGUI West Oxfordshire Design Guide
 HAEI Hailey trees
 The National Planning Policy framework (NPPF) is also a material planning consideration.

5 PLANNING ASSESSMENT

Background Information

5.1 The application seeks consent for the erection of 22 affordable dwellings with associated soft and hard landscaping, open space and infrastructure. The site is to the south of Giernalls Road, and adjacent to Priest Hill Lane in Hailey. It is not within any areas of special designation but the Cotswolds AONB is 800m to the west and Hailey Conservation area wraps around the site to the north and east. There is a public footpath along the southern boundary.

5.2 Amended plans have been received to address officer concerns regarding the landscaping and layout.

5.3 The application is before committee as the Parish Council have objected to the proposals on the grounds of the spur road.

5.4 A previous outline application for 9 dwellings on the same site area as is proposed for this application was approved in 2017 under permission 17/00966/OUT. Prior to that an outline application for 25 dwellings on this site and additional land to the south and west was refused and went to appeal but it was subsequently withdrawn.

5.5 Taking into account planning policy, other material considerations and the representations of interested parties your officers are of the opinion that the key considerations of the application are:

Principle

5.6 The proposal is on undeveloped land adjoining the built up area of Hailey. Hailey is identified as a village in the West Oxfordshire Local Plan 2031, and has a small range of facilities including a pub, a primary school and a hairdresser. Policy OS2 allows for limited development in villages where it *respects the village character and local distinctiveness and would help to maintain the vitality of these communities.*

5.7 Policy H2 of the West Oxfordshire Local Plan 2031 allows for new dwellings in the following circumstances:

On undeveloped land adjoining the built up area where convincing evidence is presented to demonstrate that it is necessary to meet identified housing needs, it is in accordance with the distribution of housing set out in Policy H1 and is in accordance with other policies in the plan in particular the general principles in Policy OS2.

5.8 Policy H3 requires that:

Across the District as a whole, housing schemes of 11 or more units or which have a maximum combined gross floorspace of more than 1,000m² will be required to provide affordable housing on-site as a proportion of the market homes proposed as follows:

- High value zone (50%)
- Medium value zone (40%)
- Low value zone (35%)

5.9 Whilst Hailey is in the medium value zone this scheme is proposed as 100% affordable so exceeds the requirements of policy H3. The proposal is supported by the Councils Housing Enabling Officer who has identified 57 households requiring homes within the village.

5.10 Officers consider that it can be demonstrated that there is an identified housing need, and that there is a previous permission for housing on this site so the principle of development is accepted.

Siting, Design and Form and Landscape

5.11 The proposal seeks consent for 22 two storey dwellings, predominantly in semi detached pairs around a t-shaped spur road. Officers requested amendments to the scheme to make the developed area smaller to allow for additional planting buffer around the site, specifically to minimise the impact of the proposal in long distance views from the west. Additional trees and shrubs have been proposed to break the skyline as the levels change across the site. Some changes to the layout have also been made to address the Crime Prevention Officers comments, but not all of the requests can be accommodated.

5.12 The Parish Council have objected on the grounds of the spur road being a gateway to further development to the south but OCC have no technical objections to the road layout, and it would be short sighted to preclude access into the field at this point, although officer would stress that there are no plans or proposals for further development to the south of the recreation ground, and that its development would be complicated as it is on rising ground and was one of the reasons the 16/01540/OUT was not supported. On these grounds officers consider that the spur road is justified and supportable.

5.13 Within a Conservation Area, Officers are required to take account of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended which states that, with respect to buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. In this regard the site is not within but immediately adjacent to the conservation area. The layout, landscaping and vernacular house types are considered to preserve the character and appearance of the Conservation Area.

Highways and drainage

5.14 The application has been considered by OCC as Highway Authority and they have raised no objections subject to conditions and S106 monies outlined below. They have been reconsulted on the amended plans so any further comments will be included in the additional representations report, or updated verbally at the meeting.

5.15 The neighbour representations have picked up on the increase in traffic on Giernalls Road which will be inevitable with additional houses

5.16 The County as LLFA have objected to the proposals as they still require more information in order to assess the development thoroughly. The applicant is working to remove the technical objection and an update will be given.

Residential Amenities

5.17 The proposal is separated from adjacent residential properties to the north by a landscape buffer. Furthermore the closest properties are either orientated side to side or side to rear so it is not considered that there will be any undue harm to the properties due north through overlooking or overshadowing. There will be an increase in vehicle movements passed the existing houses but this is not considered so harmful as to justify a reason for refusal.

5.18 Concerns have been raised regarding the capacity at the primary school and the lack of public transport. OCC have not required contributions from the development towards education because the need for expansion cannot be related directly to this small development. However County Highways have requested a contribution towards the local bus service.

Ecology

5.19 The site is currently scrub land with sylvan boarders. There is an existing landscape screen along Priest Hill Lane which is outside the applicants control. The ecologist has been consulted on this application and has been engaging with the applicant over biodiversity net gain opportunities. Whilst the applicant has agreed to off-site compensation, these discussions are still ongoing and an update will be given at the meeting.

S106 matters

5.20 Contributions have been requested towards the following infrastructure:

Hailey PC

Capital contribution is sought towards the above new Village Hall costs (non specific).

Capital contribution is also sought towards the Sports pavilion costs.

OCC

- S106 Agreement to secure £22,814 index-linked towards bus service improvements serving the site.

- S278 Agreement for the construction of the site access.

WODC

£37,510 off-site contribution towards sport, leisure and recreation facilities within the catchment.

5.21 The applicant is considering the contributions and whether they meet the required tests.

Conclusion

5.22 The proposal is considered to be acceptable in principle, it will be providing 22 affordable houses in an area where there is demonstrable need. However there are some outstanding technical matters and

officers request delegated authority to determine the application subject to no new technical matters being raised, a SI06 being completed and to confirm the final conditions with the chairman.

6 CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

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

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

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no development permitted under Schedule 2, Part 1, Classes A, B, C, D, E, G and H shall be carried out other than that expressly authorised by this permission.

REASON: Control is needed to protect the landscape.

4. Before above ground building work commences, a schedule of materials (including samples) to be used in the elevations of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in the approved materials.

REASON: To safeguard the character and appearance of the area.

5. The external walls shall be constructed of artificial stone in accordance with a sample panel which shall be erected on site and approved in writing by the Local Planning Authority before any external walls are commenced and thereafter be retained until the development is completed.

REASON: To safeguard the character and appearance of the area.

6. Notwithstanding details contained in the application, detailed specifications and drawings of all external windows and doors to include elevations of each complete assembly at a minimum 1:20 scale and sections of each component at a minimum 1:5 scale and including details of all materials, finishes and colours shall be submitted to and approved in writing by the Local Planning Authority before that architectural feature is commissioned/erected on site. The development shall be carried out in accordance with the approved details.

REASON: To ensure the architectural detailing of the buildings reflects the established character of the area.

7. The window and door frames shall be recessed a minimum distance of 75mm from the face of the building unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure the architectural detailing of the building reflects the established character of the locality.

8. Prior to first occupation the applicant must submit plans to the Local Planning Authority for the Electric Vehicle Charging points across the site in line with Policy EVI8 and thereafter construct according to the agreed plans.

REASON: To ensure the site is in line with Policy EVI8.

9. The means of access between the land and the highway shall be constructed, laid out, surfaced, lit and drained in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority and all ancillary works therein specified shall be undertaken in accordance with the said specification before first occupation of the dwellings hereby approved.

REASON: To ensure a safe and adequate access.

10. Prior to first occupation a Residential Travel Information Pack shall be submitted to and approved by the Local Planning Authority.

REASON: To ensure all residents are aware of the travel choices available to them from the outset.

11. A Construction Traffic Management Plan should be submitted to the Local Planning Authority and agreed prior to commencement of works. The CTMP should follow Oxfordshire County Council's template if possible. This should identify;
- The routing of construction vehicles and management of their movement into and out of the site by a qualified and certificated banksman,
 - Access arrangements and times of movement of construction vehicles (to minimise the impact on the surrounding highway network)
 - Details of wheel cleaning / wash facilities to prevent mud, etc from migrating on to the adjacent highway
 - Contact details for the Site Supervisor responsible for on-site works
 - Travel initiatives for site related worker vehicles
 - Parking provision for site related worker vehicles
 - Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours
 - Engagement with local residents

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

10. No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any significant contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority before any development begins.

The Remediation Scheme, as agreed in writing by the Local Planning Authority, shall be fully implemented in accordance with the approved timetable of works and before the development hereby permitted is first occupied. Any variation to the scheme shall be agreed in writing with the Local Planning Authority in advance of works being undertaken. On completion of the works the

developer shall submit to the Local Planning Authority written confirmation that all works were completed in accordance with the agreed details.

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

REASON: To ensure any contamination of the site is identified and appropriately remediated.

Notes to applicant

- 1 There are public sewers crossing or close to your development. If you're planning significant work near our sewers, it's important that you minimize the risk of damage. We'll need to check that your development doesn't limit repair or maintenance activities, or inhibit the services we provide in any other way. The applicant is advised to read our guide working near or diverting our pipes.
<https://developers.thameswater.co.uk/Developing-a-large-site/Planning-your-development/Working-nearor-diverting-our-pipes>.

Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

- 2 Please note that this consent does not override the statutory protection afforded to species protected under the terms of the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017 (as amended), or any other relevant legislation such as the Wild Mammals Act 1996 and Protection of Badgers Act 1992.

All British bat species are protected under The Conservation of Habitats and Species Regulations 2017 (as amended), which implements the EC Directive 92/43/EEC in the United Kingdom, and the Wildlife and Countryside Act 1981 (as amended). This protection extends to individuals of the species and their roost features, whether occupied or not. A derogation licence from Natural England would be required before any works affecting bats or their roosts are carried out.

All British birds (while nesting, building nests, sitting on eggs and feeding chicks), their nests and eggs (with certain limited exceptions) are protected by law under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000. Works that will impact upon active birds' nests should be undertaken outside the breeding season to ensure their protection, i.e. works should only be undertaken between August and February, or only after the chicks have fledged from the nest.

In the event that your proposals could potentially affect a protected species, or if evidence of protected species is found during works, then you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works (with regard to bats).

- 3 Applicants are strongly encouraged to minimise energy demand, and take climate action, through fitting:

- o Electricity-fed heating systems and renewable energy, for example solar panels and heat pumps; thus avoiding fossil fuel based systems, for example gas boilers
 - o Wall, ceiling, roof, and floor insulation, and ventilation
 - o High performing triple glazed windows and airtight frames
 - o Energy and water efficient appliances and fittings
 - o Water recycling measures
 - o Sustainably and locally sourced materials
- For further guidance, please visit:
<https://www.westoxon.gov.uk/planning-and-building/planning-permission/make-a-planning-application/sustainability-standards-checklist/>
<https://www.westoxon.gov.uk/environment/climate-action/how-to-achieve-net-zero-carbon-homes/>

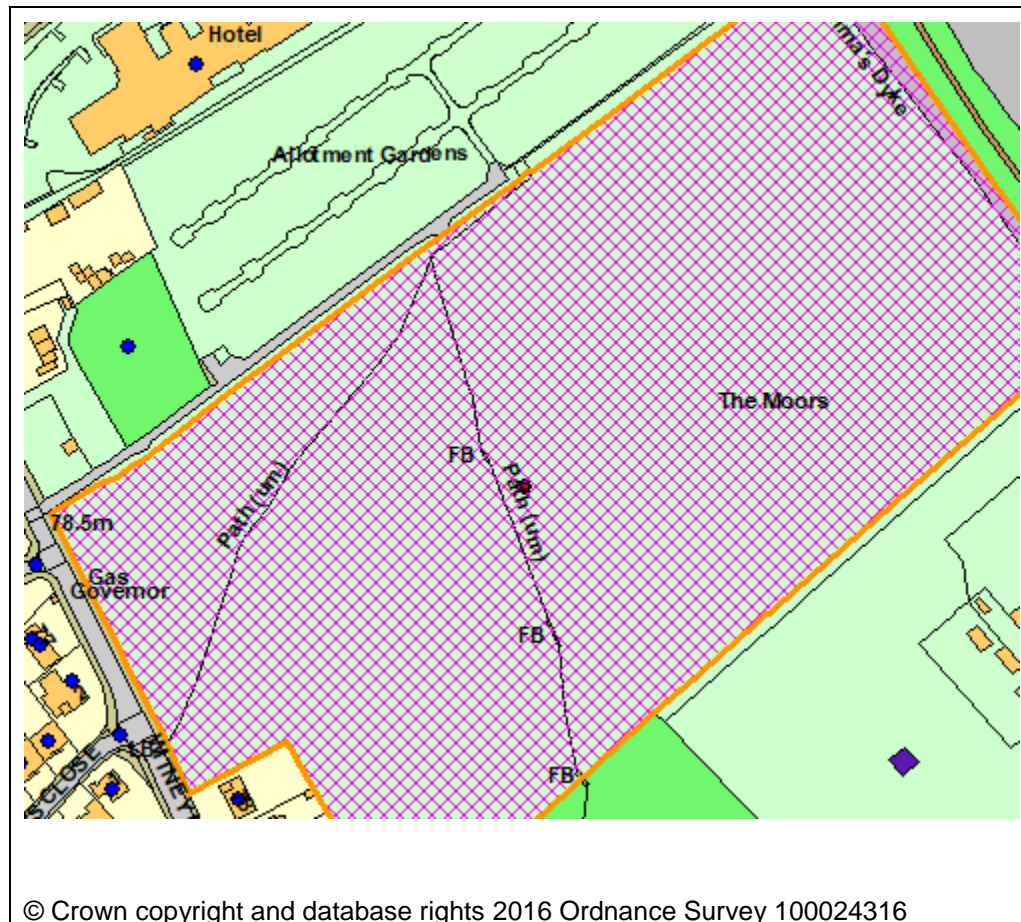
Contact Officer: Abby Fettes

Telephone Number: 01993 861684

Date: 16th February 2022

Application Number	21/03405/OUT
Site Address	Land East Of Witney Road Ducklington Witney Oxfordshire
Date	16th February 2022
Officer	David Ditchett
Officer Recommendations	Refuse
Parish	Ducklington Parish Council
Grid Reference	435417 E 208323 N
Committee Date	28th February 2022

Location Map



Application Details:

Outline planning permission for up to 120 dwellings with associated landscaping and infrastructure with detailed vehicular access from Witney Road (with all other matters including other access arrangements reserved).

Applicant Details:

Ainscough Strategic Land
C/o Agent

I CONSULTATIONS

Parish Council

Section 1: Introduction

'The Moors' is an area of open land to the north-east of Ducklington that extends between Witney Lake to the east and Witney Road, Ducklington to the west.

The northern part of The Moors ('the Site') is proposed for approximately 120 houses by Ainscough Strategic Land.

This representation is made by Ducklington Parish Council who **OBJECT** to the proposed development.

Section 2: Planning Policy

Relevant policies are contained within the West Oxfordshire Local Plan 2031 (Adopted September 2018).

It is noted that the Site is not allocated for development. The Witney sub-area - within which Ducklington falls - is identified for 4,702 homes, delivered as part of strategic extensions of Witney and small-scale development at Minster Lovell. No housing delivery / allocations are proposed at Ducklington.

It is also noted that Ducklington is categorised as a 'village' within the Local Plan and that there is no defined settlement boundary.

The Site falls within the Lower Windrush Valley Conservation Target Area. Conservation Target Areas (CTAs) identify some of the most important areas for wildlife conservation in Oxfordshire, and provide a focus for biodiversity enhancements.

The Site falls within close proximity to the Ducklington Conservation Area, which seeks to preserve and enhance the historic character of this part of the village.

POLICY OSI: Presumption in favour of sustainable development

This policy requires development to be approved in accordance with the policies of the Local Plan unless there are no relevant policies or the policies are out of date. In such circumstances the Council will

grant permission unless material considerations indicate otherwise, including whether any adverse impacts will outweigh the benefits.

POLICY OS2: Locating development in the right places

This policy states that villages are suitable for limited development which respects the village character and local distinctiveness; and that a number of site allocations are proposed within villages to ensure identified housing needs are met.

POLICY OS4: High quality design

This policy states that new development should respect the historic, architectural and landscape character of the locality, contribute to local distinctiveness and, where possible, enhance the character and quality of the surroundings.

POLICY H2: Delivery of new homes

This policy states that new dwellings will be permitted in villages in the following circumstances:

On sites that have been allocated for housing development within a Local Plan or relevant neighbourhood plan;

On previously developed land within or adjoining the built-up area provided the loss of any existing use would not conflict with other plan policies and the proposal complies with the general principles set out in Policy OS2 and any other relevant policies in this plan;

On undeveloped land within the built-up area provided that the proposal is in accordance with the other policies in the plan and in particular the general principles in Policy OS2; and

On undeveloped land adjoining the built-up area where convincing evidence is presented to demonstrate that it is necessary to meet identified housing needs, it is in accordance with the distribution of housing set out in Policy H1 and is in accordance with other policies in the plan in particular the general principles in Policy OS2.

Policy H2 also states that new development in the open countryside will only be permitted if in accordance with the general principles in Policy OS2 and in the following circumstances:

Where residential development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of a heritage asset;

Residential development of exceptional quality or innovative design;

New accommodation proposed in accordance with policies specifically for travelling communities; Accommodation which will remain ancillary to existing dwellings;

Replacement dwellings on a one for one basis;

Re-use of appropriate existing buildings which would lead to an enhancement of their immediate setting and where it has been demonstrated that the building is not capable of reuse for business, recreational or community uses, tourist accommodation or visitor facilities or where the proposal will address a specific local housing need which would otherwise not be met; and

On sites that have been allocated for housing development within an adopted (made) neighbourhood plan

The Local Plan / Policy H2 does not specify what constitutes 'open countryside'.

POLICY EH2: Landscape character

This policy requires new development to conserve and, where possible, enhance the intrinsic character, quality and distinctive natural and man-made features of the local landscape.

POLICY EH3: Biodiversity and geodiversity

This policy requires new development to enhance biodiversity. All developments are required to demonstrate a net gain in biodiversity where possible, and this should be quantified through the use of a Biodiversity Impact Assessment Calculator (BIAC).

This includes the conservation and enhancement of habitats / ecological networks, especially within Conservation Target Areas (CTAs). CTA's are defined in the Local Plan as: "The most important areas for wildlife conservation where targeted conservation action will have the greatest benefit. The main aim within CTAs is to restore biodiversity at a landscape-scale through maintenance, restoration and creation of UK priority habitats and areas for priority species.

POLICY EH7: Flood risk

This policy requires new development to manage flood risk on-site. It states that "...land required for flood management will be safeguarded from development and, where applicable, managed as part of the green infrastructure network".

POLICY EH9: Historic environment

This policy requires new development to conserve and /or enhance the special character, appearance and distinctiveness of West Oxfordshire's historic environment. This includes "...the special architectural and historic interest, character and/or appearance of the District's Conservation Areas and their settings, including the contribution their surroundings make to their physical, visual and historic significance".

Section 3: Site Location and Context

The Moors is located to the north-east of Ducklington, bound by allotments to the north; Witney Lake and Country Park to the east; River Windrush to the south; and Witney Road / housing to the west. It comprises a series of linear fields / some areas of private gardens, which are predominantly used for grazing. The overall parcel of land is regular in shape and with clearly defined boundaries.

The northern part of The Moors - which encompasses the Site - is crossed by a series of drainage ditches, that feed into the adjoining

'Emma's Dyke' that runs along the north-eastern boundary of The Moors. Two Public Rights of Way cross this part of The Moors, providing a connection between Ducklington and Witney. One of the footpaths is characterised by a series of wooden bridges that cross the ditches. Although an area of privately owned land, it is regularly used by dog walkers.

The Moors appears on early OS maps (OS One Inch, 1885 - 1900 - Outline) as a clearly defined area of open land to the north of Ducklington, and forms part of larger 'gap' between Ducklington and Witney. The Moors is also clearly identified on subsequent mapping (OS Six Inch, 1888 - 1913) and including a series of footpaths crossing The Moors. Indeed, Mollie Harris - in her book 'A Kind of Magic' which captures her childhood in Ducklington in the 1920's - writes that villagers would go over The Moors on their way to work in Witney. Mollie herself recalls that when travelling to Witney, she would take a "...short cut through The Moors across a footpath that lay over three or four fields with tiny wooden bridges spanning green-slided ditches".

In more recent years there have been some incursions into the open land of The Moors, including the Oxford Witney Hotel, Lakeside Apartments and allotments to the north; and a row of housing in Ducklington, typically fronting on to the Witney Road, to the south-west. Gravel extraction to the north-east of The Moors has also resulted in the creation of the Witney Lake Country Park. Despite these changes The Moors remains a regular area of open, undeveloped land on the edge of Ducklington. It also has a close association with the adjoining Witney Lake Country Park which are connected by the footpath, and forms a largely contiguous area of landscape characterised by the lake, dykes and drainage ditches.

Although it is accepted that the majority of The Moors is located within Flood Zone 1 and is considered to have a low probability of flooding, large parts of The Moors have been prone to flooding during winter months. Photographic evidence is provided in Appendix 1 which catalogues flooding events in recent years.

In more recent years, the development of the Oxford Witney Hotel, along with housing within the village extending north along Witney Road (primarily between Witney Road and the A415) has reduced the degree of physical separation between Ducklington and Witney, however, The Moors continues to provide an important area of open land on the edge of the village. The undeveloped frontage between the northern part of The Moors and the Witney Road - along with the larger detached houses opposite - combine to create a 'village fringe' character and forms part of a transitional area when leaving / arriving in Ducklington that is distinctly different from other areas of the village.

While housing to the west of Witney Road has largely filled the space between the Witney Road and the A415 (which forms a 'by-pass' to the village) - extending along a series of cul-de-sacs - housing to the east of Witney Road retains a very distinctive morphology of single depth housing backing on to The Moors. Housing and private gardens typically extend to around 50m from Witney Road. This continues right the way along the Witney Road for some 750m, before the road comes closer to the River Windrush, and fork south and enters into the historic core of the village. The only exception is the small Chalcroft development - on the Site of the former petrol station - that extends some 4 houses deep, and extending to around 70m from Witney Road. This pattern is unique to this part of Ducklington and makes an important contribution to the overall character of the village.

Section 4: Relevant Planning Appeals

A number of recent Planning Appeal decisions are of relevance to understanding The Moors and its local context.

Land To The Rear Of 110 Witney Road Ducklington Witney Oxfordshire - 20/01556/FUL

Immediately to the north of 'The Moors', a planning application was dismissed at Appeal for erection of a two-storey dwelling. The Inspector found that this site - along with the Application Site - formed part of an open gap / fringe that makes an important contribution to the setting of Ducklington. The Appeal Decision states that:

".....the undeveloped site forms part of a notable gap in the built frontage between 78 and 110 Witney Road. In providing for an appreciable open fringe around the development to this part of Witney Road and a connection to the countryside, it therefore contributes to the attractive rural character and appearance of the area and the open setting around the outskirts of Ducklington"

The Inspector also considered the relationship of the site with edge of Witney and found that despite the close proximity of Ducklington to the Oxford Witney Hotel (and other modern buildings), Ducklington still retains a rural character and with an open setting to the north. Indeed, the Inspector suggests that the remaining open land is of even greater importance given development at the roundabout has changed the character around the village. The Appeal Decision states that:

"The site is very close to the junction of Witney Road with a roundabout on the A415. Between the arms of the roundabout are a mix of relatively modern buildings including a supermarket, a hotel and a petrol station, as well as an access serving a second hotel (the Oxford Witney Hotel) and flats within buildings that extend alongside

the allotments to the rear of the appeal site. However, these flats and the Oxford Witney Hotel which are closest to the site are orientated to face away from the allotments, and appear to turn their backs on the village and Witney Road. Given also the contrasting commercial use and significantly greater scale of the buildings around the roundabout and their positioning, I found despite their proximity that they are visually distinct from those buildings on Witney Road forming the outskirts of Ducklington, and are appreciated as a discrete cluster. Moreover, while development around the roundabout has undoubtedly changed the wider context of the appeal site, in my view this is not to the extent that the generally rural character and appearance of the village has been compromised or lost, nor that the remaining open setting is of no importance".

The Inspector also found that there would be wider impacts on the landscape character of the 'floodplain pasture' within the Lower Windrush Valley and Eastern Thames Fringes landscape character area, with this part of Witney Road providing a degree of openness which is a distinctive feature of the wider landscape and countryside.

Overall the Inspector concluded that the proposed development would result in unacceptable harm to the character and appearance of the area.

This Appeal decision clearly identified The Moors as having an open, rural character that forms part of the setting of Ducklington and separation from Witney.

Land To The South Of Standlake Road Ducklington Witney
Oxfordshire - 18/02260/OUT

To the south of Ducklington, a planning application was dismissed at Appeal for erection of 20 houses. In the absence of a clearly defined settlement boundary to Ducklington, the main area of disagreement was whether the site was within or adjoining the built-up area of the village, or whether the site comprises land within the open countryside.

The Inspector found that although the site is adjacent to residential and commercial buildings on the edge of Ducklington, these are outlying areas of development and it is therefore separated from the main part of the village and is within the open countryside.

The Inspector also concluded that the proposed development would adversely impact on the character and morphology of the village. The Appeal Decision states that:

".....the proposal would introduce a separate housing estate at the very edge of the village and in combination with the proposed removal of a section of hedgerow which makes a positive contribution to the character and appearance of the area, would

appear as an urban feature which extends into the countryside. The more open character to the southeast of the village would be compromised by the depth and spread of the proposed development which would not reflect the linear nature of the four outlying dwellings that are located adjacent to the north eastern section of the appeal site".

Applying this judgement to the Application Site it could also be concluded that any development within 'The Moors' could adversely impact on open character to the north of the village and the linear nature of existing development along Witney Road. The Application Site could also be considered as 'open countryside' comprising undeveloped land on the edge of the settlement that is separate from the core of the village.

Land North of Grange Farm House Bampton Road Curbridge Witney Oxfordshire - 18/01724/OUT

Within the local area, a planning application was dismissed at Appeal for erection of 85 houses at Curbridge - a small village near Ducklington. The development site itself comprises a 'triangle' of land between linear development along Main Road and Well Lane.

The Inspector found that the proposal would fundamentally change the character of the village, comprising an 'in-depth' housing estate; and in essence turning a linear village into a more nucleated one. The Inspector also found that the proposal - despite not being public open space - would involve the loss of an area of open space that makes an important contribution to the character of the village.

Applying this judgement to the Application Site it could also be concluded that 'The Moors' plays an important role in maintaining the linearity of this part of Ducklington and contributes to the overall character of the village.

Section 4: Overall Importance of 'The Moors' Site

Drawing on the analysis of 'The Moors' site - and taking into account recent Appeal decisions - it can be concluded that:

The Moors has historically been an open area of land on the edge of Ducklington.

The Moors continues to form part of an open gap / fringe between Ducklington and Witney.

The Moors can be considered as 'open countryside' comprising undeveloped land on the edge of the settlement.

The Moors makes an important contribution to the rural character and appearance of Ducklington. The Moors forms part of the unique pattern of linear development in this part of Ducklington.

The Moors is crossed by footpath routes and provides an important connection between Ducklington and Witney.

The Moors forms part of the Lower Windrush Valley CTA which is a priority area for biodiversity enhancements.

The Moors is prone to flooding.

Section 5: Review of Planning Application

DPC have undertaken a review of the submitted application material, and set out below a number of comments / observations.

DPC does not have the resources to engage technical consultants to review the application material and we respectfully request that WODC utilise their team of in-house specialists to fully scrutinise the application, especially in relation to landscape, heritage, ecology and drainage matters.

Content

While it is accepted that this is an Outline Planning Application (with all matters reserved except access) it seems there are no Parameter Plan/s which 'fix' the developable area and key land-uses. The stand-alone drawings on the WODC planning portal are all 'indicative' and the material in the DAS described as 'illustrative'. As such the actual developable area is unknown and could potentially include the entire site, as defined by the red line boundary.

If this is the case, it would make many of the technical assessments 'flawed', with documents such as the Landscape and Visual Impact Assessment, Ecology Assessment Report and Flood Risk Assessment all assuming a degree of mitigation embedded in the scheme, such as retained boundary vegetation, new habitat creation, and surface water drainage features.

Design

As an Outline Planning Application it is not possible to comment on the design of the houses, public realm and open spaces. However - notwithstanding that DPC object to the principle of development - the following comments are made in relation to the illustrative layout:

The proposed development would result in the complete loss of the open, undeveloped frontage between Witney Road and The Moors. As previously demonstrated, this provides an important 'gap' between Ducklington and Witney.

The 'depth' of development extends some 275m from the Witney Road, arranged along a cul-de-sac. This is not consistent with the pattern of single depth housing backing on to 'The Moors' which is typically 50m deep. - The overall shape and scale of the development extending out to the east of Witney Road and up to the boundary of Witney Lake Country Park

does not complement the morphology of this part of village, with development largely contained between the A415 and Witney Road.

This plan extract from page 48 of the Design and Access Statement - which shows existing and proposed buildings - clearly demonstrates how poorly the proposals relate to the existing village:

Landscape and Visual

DPC consider that the Landscape and Visual Impact Assessment (LVIA) underplays the effects on landscape fabric and character.

The effect on site character is assessed as 'minor' with potential to enhance the character of the Site and settlement edge. DPC consider the proposed development would result in a complete change in land-use and as such would have a 'major' effect on site character. Furthermore, it is not possible to mitigate this impact through any proposed landscape design, nor would there be any enhancement to the existing settlement edge.

The effect on the Floodplain Pasture Landscape Character Area (within which the Site falls) is assessed as 'negligible' and that the development would read as an extension to the existing settlement. DPC consider that there will be greater effects on the landscape surrounding the Site due to intrusion into an area of landscape that is typically unsettled and with a strong pastoral character. Furthermore it is considered that the proposed development would not 'read' as an extension to the existing settlement, being at odds with the existing morphology and causing coalescence with Witney.

In addition, the LVIA does not provide any consideration of the impact of the development on settlement character and the important relationship between the village and its landscape setting. As set out earlier in these representations, this part of the village has a distinct pattern of predominantly single depth development to the east of Witney Road, and with the Site providing a 'green gap' between the village edge and Witney. The undeveloped frontage of the Site to the Witney Road - along with the larger detached houses opposite - also creates a 'village fringe' character and forms part of a transitional area when leaving / arriving in Ducklington. The proposed development will result in a change to settlement pattern; loss of 'green gap'; and erosion of the fringe character, and as such, will have an adverse effect on settlement character.

DPC also request that WODC Case Officer considers whether the site would comprise a 'valued landscape' under paragraph 174 of National Planning Policy Framework. There is no clear published guidance as to how to assess if a landscape is 'valued', however case law has clarified that for a landscape to be valued would require the site to show some demonstrable physical attribute rather than just popularity. Box 5.1 in the 3rd Edition Guidelines for Landscape and Visual Impact Assessment (2013) is often used to help identify the 'demonstrable attributes' that might take a landscape out of the ordinary to something that is special and valued. The quality of The Moors landscape; its recreational and amenity value; and perceptual aspects could all indicate that it is of greater value than 'everyday' countryside.

Heritage

DPC consider that the Settings Assessment underplays the effects on the Conservation Area. DPC are also surprised that heritage matters do not feature within the 'Site Context' section of the Design and Access Statement, given the range of heritage features within Ducklington.

The Settings Report states that the Site is not a key element of the setting of Ducklington Conservation Area; does not contribute to its character and appearance; and there are no key views between the Site and Conservation Area. Overall it concludes there will be 'no harm' to the Conservation Area. As described above in relation to landscape and visual matters, the proposed development will adversely affect the setting / approach to the village. This will be clearly visible from the northern end of the Conservation Area (approximately 80m away) and will result in some degree of harm.

It is also noted that the Settings Assessment makes various references to the Site forming part of the historic agricultural hinterland of Ducklington. This further highlights the role of the Site - and wider area of The Moors - in forming a rural setting to the village.

This plan extract from page 18 of the Settings Assessment clearly shows the linear nature of the settlement; limited development to the east of Witney Road; and the close relationship between the Conservation Area and undeveloped landscape to the north-east of the village:

When it determines the application, WODC will need to fulfil its duty, under the Planning (Listed Buildings and Conservation Areas) Act 1990, to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area, which includes its setting.

Ecology

DPC consider the Ecological Assessment Report makes it difficult to judge the effect of development on habitats and species due to there being no defined impact criteria (such as major, moderate, minor or negligible).

The Ecological Assessment Report also suggests that the proposed development will deliver biodiversity enhancements, which seems contrary to the findings of the high-level Biodiversity Net Gain calculations (which are contained within the Biodiversity Net Gain Assessment Report). This report concludes that there would be an 18.84% net loss in biodiversity.

It is assumed that the Biodiversity Net Gain calculations are based on the illustrative masterplan, however, as discussed under the heading

'content', the lack of Parameter Plans make it impossible to determine how much habitat will be retained, enhanced and created.

The Biodiversity Net Gain Assessment Report further claims that financial contributions can be secured to ensure 10% net gain can be achieved 'off-site'. While it may be possible to deliver off-site compensation, there appears to have been no attempt to mitigate this impact on site (potentially through a reduced developable area). Furthermore there are no records of engagement with WODC or other land-owners to determine if any suitable off-site opportunities exist.

DPC therefore considers the proposed development will have a significant impact on ecology, and that given the high degree of biodiversity loss/ lack of it will be extremely difficult to achieve the conservation objectives of the Lower Windrush CTA.

Drainage and Flood Risk

While DCP accept that the Site falls within Flood Zone 1 - which indicates a low probability of flooding - photographic evidence (provided in Appendix 1) clearly shows that this Site is prone to flooding. This has not been acknowledged in the Flood Risk Assessment and there seems to be no consideration given to localised flooding events.

DPC consider that further investigation is needed to determine the ability of the Site to accommodate development; the impact on surrounding properties due to the loss of an area of undeveloped land that is prone to flooding; and the downstream impact of increasing the rate of run-off into Emma's Dyke.

Section 6:

Compliance with Planning Policy Based on the analysis of 'The Moors' and an understanding of the proposals, the development has been considered against the prevailing planning policy context.

POLICY OSI: Presumption in favour of sustainable development

As set out below, the proposed development does not accord with a number of policies in the Local Plan. While there will undoubtedly be some benefits arising from the provision of new homes and public open space, it is also considered that there would be a range of adverse effects on the environment. As such it is considered that the prop

POLICY OS2: Locating development in the right places

The proposed development would not respect the character / local distinctiveness of the village, changing the linear pattern of development along Witney Road; diminishing the rural setting of the village; and reducing the sense of separation between Ducklington and Witney. It would also have adverse effects on landscape character,

biodiversity and heritage (as discussed in more detail below). As such, it is considered that this is not the 'right place' for development.

POLICY OS4: High quality design

The proposed development would not respect or enhance the character of the local area. As such, it is considered that the proposal does not represent 'high quality' design.

POLICY H2: Delivery of New Homes

The proposal does not meet the requirements for development within villages as:

The Site is not allocated for development

The Site is not previously developed land

The proposal is not in accordance with Policy H1 (i.e. growth in Ducklington is not part of the spatial strategy for the Witney sub-area)

The proposal is not in accordance with Policy OS2 (i.e. the proposed development would not respect the character / local distinctiveness of the village).

It is considered that the Application Site is within the countryside, albeit it adjoins the built-up area. While Policy H2 does allow for housing development in the countryside, this is only if the general principles in Policy OS2 are met. Within the countryside Policy H2 also allows for development in certain circumstances, such as the re-use of existing buildings. It is considered that none of these criteria are of relevance to the proposed development.

Overall it is considered that the proposal does not meet the requirements for the delivery of new homes either in a village or countryside location.

POLICY EH2: Landscape character

The proposed development would have an adverse impact on the fabric / character of the Site; the setting of the village; and the surrounding landscape. As such it is considered that the proposal does not conserve and enhance landscape character.

POLICY EH3: Biodiversity and geodiversity

The proposed development does not achieve net biodiversity gain; provides no certainty over on-site mitigation measures; nor makes any firm commitment to off-site compensation. This makes it extremely difficult to achieve the objectives of the CTA. As such it is considered that the proposal does not conserve and enhance biodiversity.

POLICY EH7: Flood risk

The proposed development has not been informed by an understanding of local flooding issues. As such it is considered that the proposed development does not properly manage flood-risk on-site.

POLICY EH9: Historic environment

The proposed development will harm the setting of the Ducklington Conservation Area. As such it is considered that the proposal does not conserve and enhance the historic environment.

Overall it is considered that the proposed development would not accord with key Local Plan policies and would not represent sustainable development.

Section 7: Conclusion

As stated in paragraphs 2 and 47 of the National Planning Policy Framework, planning law requires that applications for planning

Adjacent Parish Council

The application site neighbours two parcels of land in the ownership of Witney Town Council. Firstly the allotments to the North of the site and secondly, the Lake & Country Park to the East of the site.

Policy OS2 requires that 'All development should not be at risk of flooding or likely to increase the risk of flooding elsewhere.' Further, 'All development should be compatible with adjoining uses and not have a harmful impact on the amenity of existing occupants'. The proposed development site is located in our neighbouring parish, Ducklington, however, Witney Town Council cannot ignore the immediate vicinity of the site and close proximity to land owned and managed by Witney Town Council. The proposed development site has a history of flooding, and the Witney Town Council Allotments neighbouring the site has known flood issues. The site itself is not suitable for development with the history of flooding and members cannot support a proposal that puts further pressure on the surface water drainage at the allotment site. Members echo the concerns raised by Mr Jessel of the Witney Allotments Association, we are aware of issues with flooding at this much used site and agree that development of The Moors will exacerbate the surface water flooding and drainage problems for nearby land.

Further to the objection and observations made above, the same passages of Policy OS2 and the same concerns apply to harmful impact at land to the East of the site at the Lake and Country Park. Emma's Dyke is prone to flooding, so adding potential excess surface water from the site to a watercourse already struggling to meet required capacity is not a solution. During heavy rainfall events water struggling to drain away could cause flooding to the much used public footpath area around the Southern and Western sections of the Lake & Country Park.

Thames Water release sewage into the watercourse near to this site, this leads to untreated sewage in Colwell Brook, flowing onto Emma's Dyke, and the river Windrush, running adjacent to the development site. Clearly during flood events, this leads to the possibility of not

only flooding, but floodwater mixed with untreated sewage. At this point in time, there is no detailed plan or information from Thames Water as to how far any improvements to Witney Sewage Treatment Plant might go, or indeed whether it will be able to cope with the increased demand from any planned new development, without extra demand being placed upon the system from large scale developments in sites not identified in the Strategic Development Plan for Witney.

This application brings development too close to the Lake & Country Park, again, failing to meet the objectives set out by Policy OS2 'All development should as far as is reasonably possible protect or enhance the local landscape and the setting of the settlement'. The Lake & Country Park is in a rural setting, with natural landscaping and high biodiversity, development as proposed is an encroachment and should be refused in order to protect this valuable wildlife habitat.

Much of the vehicular, cycle and pedestrian traffic will be leaving the development site and heading North to Witney, the main service centre. The roundabout is dangerous and busy, it is not a suitable or safe place for children to navigate.

This application fails to meet many of the General Principles of Overall Strategy policy - Policy OS2, Witney Town Council respectfully ask that this proposal for development be refused.

WODC - Arts

No Comment Received.

Conservation Officer

However they lay this development out, from our point of view it will remain problematic. And this is because houses here will inevitably tend to further weaken the character of Ducklington as a separate settlement - noting that the main northern approach along Witney Road is currently somewhat sparsely developed at this point.

In addition, we note that this is a particularly sensitive area, with long views across a low-lying riparian landscape of watercourses and willows. In this context the development would be prominent - certainly affecting the setting of the Ducklington Conservation Area, which extends along the road near to the southern tip of the proposed site.

WODC Env Health - Lowlands

Received 03/11/2021

I confirm that I have now received copies of the supporting technical reports I had requested, covering the air quality assessment, odour assessment and the transport assessment respectively.

In particular I was keen to draw conclusions on how potential

cumulative impacts of this development might be considered. In respect of the air quality assessment only a qualitative screening assessment has been provided with no apparent consideration of the cumulative impacts of other proposed significant developments in the Witney area. I note that in relation to other ongoing local housing applications, and especially for similar sized proposals, a quantitative modelling assessment including cumulative impacts has been provided for those developments.

The ES has already stated in relation to local air quality: changes in pollutant concentrations from traffic generated by the Proposed Scheme are unlikely to be significant. Possibly in isolation, however in my opinion that the assessment of air quality impact should include a cumulative assessment of its effect on the Witney AQMA, including known and reasonably anticipated development such as the East and North Witney SDAs. This proposal will add some new traffic to the AQMA. The Council has a statutory duty to improve air quality especially in those areas where it exceeds the national quality objective. An AQMA is the embodiment of the type of area that local authorities are duty-bound to address. It is appropriate for a local authority to consider the impact of air quality within an AQMA alongside other development schemes.

Until this cumulative assessment has been provided I object to this scheme.

Major Planning Applications
Team

Education - no objection subject to legal agreement securing S106 contributions

Waste Management - no objection subject to legal agreement securing S106 contributions

WODC - Sports

Should this proposal be granted planning permission then the Council would require a contribution towards sports facilities.

WODC Planning Policy
Manager

Given the scale and form of development proposed and the significance of the site to the character and appearance of the area, this proposal is considered contrary to the West Oxfordshire Local Plan, in particular Policies OS2 and H2.

The proposal is not 'limited development which respects the village character and local distinctiveness'. It is not of a proportionate and appropriate scale to its context; would not form a logical complement to the existing scale and pattern of development or the character of the area; would not avoid the coalescence of Witney and Ducklington; would not protect the local landscape or setting of Ducklington or Witney; would involve the loss of an area of green

space that makes an important contribution to the character and appearance of the area; potentially could be at risk of flooding or increase the risk elsewhere; would not conserve and enhance the natural, historic and built environment; and may not be supported by all the necessary infrastructure, in particular sewerage. In essence, development of this site would not be locating it in the right place.

Climate

The Sustainability Standards Checklist in planning was approved by Full Council in February 2021. The proposed development has been assessed against the sustainability standards in the checklist, and this assessment is summarised below:

A) Water use and flood risk

- A water efficiency target of 110 l/p/d is proposed, which complies with LP Policy OS3; however, the applicant should commit to at least <95 l/p/d and striving for <75 l/p/d, in line with RIBA 2030 Climate Change performance targets.
- There is no commitment to include rainwater harvesting and/or water recycling to conserve water.
- Changes to the flood zone (from flood zone 3 to 1) should be investigated to establish why the flood risk has lowered on the site and ensure the site is suitable for development.

B) Biodiversity

- Refer to ecologist's comments on biodiversity.

C) Green and Active Travel

- Existing PRoWs would be protected and enhanced; however further work is required on pedestrian and cycle routes, as advised by OCC.
- Cycle parking details can be secured as a planning condition.
- No commitment has been made to encourage home working, shared mobility options or to support multi modal interchanges.
- EV charging infrastructure for future charging point installation is proposed; however active, fast EV charging points should be installed prior to occupation for every dwelling with an allocated parking spaces and 25% of unallocated spaces, in line with OEVIS.

D) Aligning with net zero carbon

- It is proposed that energy efficient measures would be incorporated into the building design to meet building regulations, including the FSH; however the applicant should be committing to achieving ultra-low energy demand with an EUI target of <35 kwh/m2.yr.
- There is no commitment for the proposed development to be fossil-fuel free and adopt alternative energy sources, for example heat pumps.
- There is no commitment to achieving a net zero-operational carbon balance and delivering 100% of energy consumption using

renewables.

- There is no commitment to minimising embodied carbon emissions.
- It is the intention to orientate the homes towards the south; however, consideration should also be given to the location and size of glazing to maximise solar gain and minimise heat loss, among other passive design measures. A commitment should be made to assess thermal comfort and the risk of overheating, and to prioritise passive design mitigation over more energy-intensive alternatives.

E) Sustainable construction, materials and waste

- The development would be registered with the Considerate Construction Scheme and achieve certification against the Code of Considerate Practice.
- A Construction Environmental Management Plan (CEMP) would be followed to minimise construction waste.
- No commitment to set recycling and landfill targets.
- No commitment to source local and sustainable construction materials and to employ sustainable construction methods on and off site.
- Dedicated recyclable storage in homes would be provided; and this should be safe and convenient.
- The Council's waste management infrastructure and services would be consulted in providing the necessary infrastructure for kerbside recycling services. Innovative and advanced waste collection systems should also be considered.

F) Voluntary Sustainability Standards

- No sustainability accreditation and / or recognised sustainability principles have been pursued.

Ecologist

The proposed development would result in harm to biodiversity and is therefore contrary to Local Plan Policy EH3. Subject to the provision of additional and revised information relating to biodiversity, I must object to the application.

WODC Housing Enabler

No objection subject to 40% affordable housing secured by legal agreement.

WODC Landscape And
Forestry Officer

There are fundamental policy objections to this proposal.

Lower Windrush Valley Project

No objection subject to legal agreement securing S106 contributions

Natural England

No objection - subject to appropriate mitigation being secured

Oxford Clinical Commissioning Group NHS	No Comment Received.
TV Police-Crime Prevention Design Advisor	I have reviewed the submitted documents and crime statistics for the area. Whilst I do not wish to object to this application at outline stage, I do have some concerns with the indicated layout, particularly relating to exposed rear boundaries, lack of surveillance and parking to the rear of dwellings.
Thames Water	<p>We regret that the Thames Area Sustainable Places team is unable to provide a detailed response to this application at this time. We are currently only providing bespoke responses to the highest risk cases. The advice below constitutes our substantive response to the consultation under the terms of the Development Management Procedure Order 2015 (as amended).</p> <p>We have checked the environmental constraints for the location and have the following guidance:</p> <p>The proposal is for 120 residential dwellings and the environmental risks in this area relate to :</p> <ul style="list-style-type: none"> - Flood risk - the site lies in Flood Zone 2/Flood Zone 3 - Watercourses - the site is in close proximity to a main river.
Environment Agency	No objection - subject to appropriate mitigation being secured
OCC Highways	<p>Received 11/02/2022</p> <p>Objection because of insufficient information to determine the application from the Transport perspective.</p>
OCC Highways	<p>Received 07/12/2021</p> <p>Objection</p> <p>Reason: Oxfordshire County Council objects to the above application on the basis insufficient information to determine the application from the Transport perspective.</p>
OCC Archaeological Services	<p>Received 14/02/2022</p> <p>I have already informed the applicants archaeological consultant that we will require the results of an archaeological evaluation to be submitted along with any planning application for the site. This need</p>

was also set out in our advice letter to you in our response to the formal consultation.

This geophysical survey report on its own does not provide the level of information we require in order to be able to fully assess the impact of his proposed development on any historic environment features in line with the NPPF, paragraph 199.

In the absence of an evaluation report we would recommend that planning permission is not granted for his development.

ERS Env. Consultation Sites

Received 15/11/2021

Thank you for consulting our team, I have looked at the application in relation to contaminated land and potential risk to human health. The following report has been submitted with the application.

- e3p, Phase I Geo-environmental Site Assessment Land Off Witney Road, Ducklington, Oxfordshire. Reference 15-059-R1-1. August 2021.

In general the findings and conclusions of the report are supported. It is agreed that an intrusive site investigation, including a robust ground gas monitoring assessment will be required to characterise the conditions on site. Please could the following points be passed to the applicant for clarification.

- Has the presence of herbicides and pesticides been considered on site?
- In section 5.2 the off site landfill is not identified as an off site source of contamination.
- The recommendation section suggests the intrusive investigation will be designed around the investigation of ground conditions for pile design. Will the investigation of potential contamination also be considered?
- Section 5.2 suggests that intrusive chemical analysis and risk assessment has been completed and considered in the development of the conceptual site model?

As further investigation is required please consider adding the following condition to any grant of permission.

1.No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any significant contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it

suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority before any development begins

2. The Remediation Scheme, as agreed in writing by the Local Planning Authority, shall be fully implemented in accordance with the approved timetable of works and before the development hereby permitted is first occupied. Any variation to the scheme shall be agreed in writing with the Local Planning Authority in advance of works being undertaken. On completion of the works the developer shall submit to the Local Planning Authority written confirmation that all works were completed in accordance with the agreed details. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

Reason: To ensure any contamination of the site is identified and appropriately remediated. Relevant Policies: West Oxfordshire Local Planning Policy EH8 and Section 15 of the NPPF.

ERS Env. Consultation Sites

Received 20/12/2021

Based on the information provided to date please consider adding following condition to any grant of permission.

1 No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any significant contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority before any development begins

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

If, during the course of development, any contamination is found

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

Reason: To ensure any contamination of the site is identified and appropriately remediated.

Relevant Policies: West Oxfordshire Local Planning Policy EH8 and Section 15 of the NPPF.

Thames Water

Waste Comments

Thames Water would advise that with regard to FOUL WATER sewerage network infrastructure capacity, we would not have any objection to the above planning application, based on the information provided.

The application indicates that SURFACE WATER will NOT be discharged to the public network and as such Thames Water has no objection, however approval should be sought from the Lead Local Flood Authority. Should the applicant subsequently seek a connection to discharge surface water into the public network in the future then we would consider this to be a material change to the proposal, which would require an amendment to the application at which point we would need to review our position.

Water Comments

Thames Water are currently working with the developer of application 21/03405/OUT to identify and deliver the off site water infrastructure needs to serve the development. Thames Water have identified that some capacity exists within the water network to serve 120 dwellings but beyond that upgrades to the water network will be required. Works are on going to understand this in more detail and as such Thames Water feel it would be prudent for an appropriately worded planning condition to be attached to any approval to ensure development doesn't outpace the delivery of essential infrastructure. There shall be no occupation beyond the 120 dwelling until confirmation has been provided that either:- all water network upgrades required to accommodate the additional demand to serve the development have been completed; or- a development and infrastructure phasing plan has been agreed with Thames Water to allow additional development to be occupied. Where a development and infrastructure phasing plan is agreed no occupation of those additional dwellings shall take place other than in accordance with the agreed development and infrastructure phasing plan. Reason - The development may lead to low / no water pressures and network reinforcement works are anticipated to be necessary to ensure that sufficient capacity is made available to accommodate additional demand anticipated from the new development. Any necessary

reinforcement works will be necessary in order to avoid low / no water pressure issues."Should the Local Planning Authority consider the above recommendation inappropriate or are unable to include it in the decision notice, it is important that the Local Planning Authority liaises with Thames Water Development Planning Department (telephone 0203 577 9998) prior to the planning application approval.

OCC Lead Local Flood Authority

No objection subject to conditions

OCC Archaeological Services

Received 23/11/2021

In the absence of an acceptable desk-based assessment and archaeological evaluation we would recommend that this application is refused.

WODC Env Health - Lowlands

Received 10/02/2022

My original comment was prompted by the apparent non-availability of a cumulative assessment of the impacts on air quality of the scheme alongside other development schemes in the vicinity. This has now been provided and indicates a minimal effect as defined within the guidance typically applicable in these circumstances. So I am happy to lift my objection on air quality grounds.

4 2 REPRESENTATIONS

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

1 general comment received relating to:

1. Flooding;
2. Highway Safety; and
3. Ecology

343 third party objections received relating to:

1. Increased flooding;
2. Highway safety;
3. Increased pollution;
4. Loss of biodiversity;
5. Sewerage issues on site already;
6. Loss of Public Rights of Way;
7. Principle of development not acceptable;

8. Noise and disturbance;
9. Traffic congestion;
10. Overbearing;
11. Oppressive;
12. Loss of community open space;
13. Pedestrian safety;
14. Drainage problems at the site;
15. Loss of space between Witney and Ducklington;
16. Lack of infrastructure;
17. Impact to mental health though loss of walking routes;
18. Insufficient school spaces;
19. Erodes village character;
20. Insufficient health care spaces;
21. Impact to biodiversity near the site;
22. Poor design;
23. Poor layout;
24. Landscape harm;
25. Proximity to electric substation and overhead cables;
26. Loss of greenness;
27. Climate change;
28. Poor landscape scheme;
29. Large development in Ducklington is not part of the local plan;
30. Insufficient local amenities to support development;
31. Loss of dog walking routes;
32. Unacceptable increase in housing for a village;
33. Harm to the conservation area;
34. Loss of historic Moors Field;
35. Loss of protected species;
36. Cumulative impact with Lidl, Costa, and hotel;
37. Loss of valued local amenity;
38. Moor Field is a floodplain;
39. WODC document "Preservation and Enhancement of Ducklington" advocates retention of the site as a meadow;
40. Public safety;
41. Move flooding elsewhere;
42. Loss of rare meadow;
43. Loss of outlook;
44. Against Lower Windrush Valley Project;
45. Health and wellbeing;
46. Conflicts with policy;
47. This is not a brownfield site;
48. Out of proportion with nearby built form;
49. Loss of grazing;
50. Poor public transport;
51. The proposed development does not respect the village character and local distinctiveness;
52. Message coming from COP26;
53. Not an allocated site;
54. Air pollution;
55. Poor access;
56. Light pollution;

57. Loss of hedgerow;
58. Loss of outlook;
59. Some houses here may be acceptable, but not 120;
60. Too close to lake;
61. Valuable route to Witney;
62. Impact to nearby allotments;
63. Little public benefits from the scheme;
64. Impacts to utilities;
65. Not enough affordable housing;
66. May be the last surviving example of the medieval field system;
67. Recent refusal of a dwelling nearby;
68. Loss of habitat;
69. Unacceptable density;
70. Proposal is unjustified;
71. Is not sustainable development;
72. 20% increase in size of Ducklington;
73. Cycle safety;
74. Ducklington should be separate to Witney;
75. The sewage system that serves Ducklington already cannot cope;
76. Impact on commute times;
77. Pandemic highlighted need for these spaces;
78. Harmful to children's safety when travelling to and from school;
79. No need for this number of houses;
80. Site is a place to walk and relax, which is important for both physical and mental health;
81. Would cause unnecessary coalescence between Ducklington and Witney and contribute to the loss of identity to the village;
82. Construction traffic;
83. Insufficient dentist spaces;
84. Increased risk of crime;
85. Loss of flora and fauna;
86. Out of the rural character of the village both in size and layout;
87. Green areas between villages and towns should be preserved;
88. Misrepresentation of plans;
89. Allotments have flooding issues;
90. Risk of losing allotments;
91. Financial impact on immediate properties;
92. Will set a precedent for future developments; and
93. The Moors is an essential recreational resource for the people of Ducklington.

A petition of objection was also received against the development of Moors Field.

3 APPLICANT'S CASE

- 3.1 The Supporting Planning Statement concludes their case as follows:
- 3.2 A Housing Land Supply Position Statement was published in December 2021 and covers the up to date supply period (2021/22 to 2025/26). The Position Statement confirms that the Council considers it has a 5.3 year housing land supply, which equates to a surplus of only 324 units.

- 3.3 Having reviewed the Council's Position Statement, it is our view that there are a number of sites included in the Council's supply that do not meet the definition of a deliverable site in the NPPF. This includes the following sites which are listed under the Site Allocations section of the Position Statement and are not described as having full/detailed consent or being under construction.

East Witney SDA;
North Witney SDA;
Land at Milstone Road, Carterton;
Land at Swinbrook Road, Carterton;
Oxfordshire Cotswold Garden Village (Salt Cross Garden Village);
West Eynsham SDA;
Land north of Hill Rise, Woodstock;
Land north of Banbury Road, Woodstock; and
Land at Myrtle Farm, Long Hanborough.

- 3.4 Taking the above sites only, it is claimed that these sites would deliver 1,402 homes in the 5 year period. However, following our review of the available evidence on the progression of these sites, none of these sites has the necessary clear evidence to demonstrate that homes will be delivered in the five year period. Indeed, on the basis that a reduction in deliverable supply of only 325 homes would result in the Council's deliverable supply falling below five years, it is clear that removal of the contribution of only a few of the above sites would be required and, on that basis, we are strongly of the opinion that the Council is not able to demonstrate a sufficient supply of deliverable sites as required by paragraph 74 of the NPPF. This assessment is also before any wider critique of the Council's supply which is likely to identify further reductions in deliverable sites.
- 3.5 It falls, therefore, that the application should be determined against the presumption in favour of sustainable development as set out by paragraph 11 of the NPPF. This means that planning permission should be granted unless (i) there are applicable policies in the framework that protect areas or assets of particular importance that would provide a clear reason for refusing the development proposed or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 3.6 Starting with any policies in the framework that protect areas or assets of particular importance, footnote 7 to paragraph 11 of the NPPF lists those policies. The only applicable policy is that relating to heritage assets given that the Ducklington Conservation Area lies approximately 30 metres to the south east. However, you confirmed at our meeting on 17 January 2022 that any harm would be considered less than substantial and that, in accordance with paragraph 202 of the Framework, the public benefits of the proposal (including the delivery of both market and affordable homes) would outweigh such harm. As such, this does not provide a clear reason for refusing planning permission.
- 3.7 The application should therefore be determined taking into account whether any adverse effects significantly and demonstrably outweigh the benefits. In our view, and considering our response to the matters provided in this letter, the effects would not significantly and demonstrably outweigh the benefits. Indeed, considering the significant benefits of the proposals (including, but limited to, the delivery of market and affordable homes, open space provision, PROW improvements, and the considerable economic benefits from construction and from the future financial spend of local residents in the local area), such benefits are considered to outweigh any

adverse effects and so, in accordance with S38(6) of the Town and Country Planning Act, planning permission should still be granted even if the presumption were not considered to be applicable.

- 3.8 We trust that the information enclosed is sufficient will now allow you to progress to the application to committee on 28 February 2022 and that you will feel able to recommend that outline planning permission should be granted.

4 PLANNING POLICIES

H1NEW Amount and distribution of housing
H2NEW Delivery of new homes
H3NEW Affordable Housing
H4NEW Type and mix of new homes
OS1NEW Presumption in favour of sustainable development
OS2NEW Locating development in the right places
OS3NEW Prudent use of natural resources
OS4NEW High quality design
OS5NEW Supporting infrastructure
EH2 Landscape character
EH3 Biodiversity and Geodiversity
EH4 Public realm and green infrastructure
EH5 Sport, recreation and childrens play
EH7 Flood risk
EH8 Environmental protection
EH9 Historic environment
EH10 Conservation Areas
EH11 Listed Buildings
EH16 Non designated heritage assets
T1NEW Sustainable transport
T3NEW Public transport, walking and cycling
T4NEW Parking provision
EH15 Scheduled ancient monuments
DESGUI West Oxfordshire Design Guide
The National Planning Policy framework (NPPF) is also a material planning consideration.

5 PLANNING ASSESSMENT

- 5.1 The proposal is an outline application for the erection of up to 120 dwellings with associated landscaping and infrastructure with detailed vehicular access from Witney Road (with all other matters including other access arrangements reserved).
- 5.2 The site is a field known as 'The Moors' and is located to the north east of the village of Ducklington. To the west of the site is Witney Road and further to the west are a group of dwellings that form part of the northernmost tip of Ducklington. To the immediate north are allotments, and further to the north is the Oxford Witney Hotel and the A40. Emma's Dyke abuts the eastern boundary of the site and this flows into the River Windrush to the south. Further to the east is Witney Lake and Country Park. To the south of the site is an Electricity substation and an adjoining field. Six existing dwellings that front Witney Road are located outside but adjoining the south western corner of the site.

- 5.3 The site is bounded on most sides by hedgerow, trees and vegetation. Sporadic fencing is also present around the site. Some trees are present within the site.
- 5.4 Infrastructure records indicate the presence of 2no sections of 33,000V Extra High Voltage overhead line crossing the site from the south-eastern corner to the north-western edge. An underground 33,000V cable is also shown found parallel to the overhead apparatus before tracking the northern boundary towards Witney Road. The Applicant advises that the overhead lines would be buried underground as part of the development.
- 5.5 Public Right of Way (PROW) (ref 194/17a/10) runs in a north easterly direction through the north west corner of the site from Witney Road and adjoins the PROW (ref 194/16/10) which runs along the northern boundary of the site. A second PROW (ref 194/16/20) runs in a northerly direction from Witney Road further to the south, by the entrance to the substation, through the field to the south of the site and then broadly through the centre of the application site, where it also joins the PROW (ref 194/16/10).
- 5.6 Ducklington Conservation Area is located approximately 50m to the southwest of the site at its nearest point. A Grade II listed building (63 Witney Road) is located 70m to the southwest of the site at its nearest point. Four non-designated heritage assets (locally listed buildings) are located between 85m and 95m to the west/south west of the site.
- 5.7 The eastern boundary of the site is within flood zones 2/3, although no dwellings are proposed in flood zone 2/3. The majority of the site is within flood zone 1.
- 5.8 The site lies within Lower Windrush Valley Conservation Target Area (CTA) and Lower Windrush Valley Project Area.
- 5.9 There is no relevant planning history associated with the site itself. However, an application for the erection of a two storey dwelling and associated landscaping (ref 20/01556/FUL) at Land To The Rear of 110 Witney Road (which is located immediately to the north of the site, next to the allotments) was received by the Council on 21/06/2020. The Council failed to determine the application within the prescribed period and the applicant subsequently appealed to the Planning Inspectorate to make a decision. Had the Council determined the application, planning permission would have been refused for the following reason:
- By reason of the proposed scale, design, and siting, the proposed dwelling would appear as an urban incongruous feature within the existing open character of this part of the village, and would not complement the existing pattern of development. The proposal as such is contrary to Policies OS2, H2 and WIT6 of the adopted West Oxfordshire Local Plan, the relevant paragraphs of the NPPF and both the West Oxfordshire Design Guide and the National Design Guide.*
- 5.10 The Planning Inspectorate dismissed the appeal finding harm to the character and appearance of the area that would not be outweighed by the benefits of the scheme. Noting that the proposal would conflict with the development plan when it is read as a whole, and material considerations do not indicate that a decision contrary to the development plan should be reached.
- 5.11 Taking into account planning policy, other material considerations and the representations of interested parties, Officers are of the opinion that the key considerations of the application are:

Principle of Development;
Siting, Design, Form and Landscape Impact;
Heritage Impacts;
Archaeology;
Highway Safety;
Drainage and Flood Risk;
Trees and Ecology;
Residential Amenities;
Public Rights of Way;
Health and Wellbeing;
Sustainability;
SI06 matters; and
Conclusion and Planning Balance

Principle of Development

- 5.12 Policy OS2 sets out the overall strategy on the location of development for the District. It adopts a hierarchal approach, with the majority of new development focused on the main service centres of Witney, Carterton and Chipping Norton, followed by the rural service centres of Bampton, Burford, Charlbury, Eynsham, Long Hanborough, Woodstock and the new Oxfordshire Cotswolds Garden Village (now referred to as Salt Cross).
- 5.13 Ducklington is identified as a 'village' in the settlement hierarchy of the Local Plan and policy OS2 states 'The villages are suitable for limited development which respects the village character and local distinctiveness and would help to maintain the vitality of these communities'.
- 5.14 Local Plan Policy H2 states 'new dwellings will be permitted at the main service centres, rural service centres and villages in the following circumstances:-
- On undeveloped land within the built up area provided that the proposal is in accordance with the other policies in the plan and in particular the general principles in Policy OS2.
 - On undeveloped land adjoining the built up area where convincing evidence is presented to demonstrate that it is necessary to meet identified housing needs, it is in accordance with the distribution of housing set out in Policy H1 and is in accordance with other policies in the plan in particular the general principles in Policy OS2'.
- 5.15 The application site is considered to be undeveloped land adjoining the built up area. Policy H2 would permit new homes on undeveloped land adjoining the built up area where there is convincing evidence to demonstrate it is necessary to meet identified housing needs; it is in accordance with the distribution of housing (in Policy H1) and it is in accordance with the other local plan policies, particularly Policy OS2.
- 5.16 Policy OS2 sets out general principles for all development. Of particular relevance to this proposal is that it should:
- Be of a proportionate and appropriate scale to its context having regard to the potential cumulative impact of development in the locality;
 - Form a logical complement to the existing scale and pattern of development and/or the character of the area;
 - Avoid the coalescence and loss of identity of separate settlements;

- As far as reasonably possible protect or enhance the local landscape and its setting of the settlement;
 - Not involve the loss of an area of open space or any other feature that makes an important contribution to the character or appearance of the area;
 - Conserve and enhance the natural, historic and built environment; and
 - Be supported by all the necessary infrastructure.
- 5.17 As noted under Policy OS2, Ducklington is suitable for limited development which respects the village character and local distinctiveness. Such an approach to development reflects how the village has evolved over the last 30 years or more, with, for instance, new homes having been built on small infill sites within the built up area and on sites adjoining the village, the largest three in particular being: Bartholomew Close in 1993 with 32 dwellings (on a disused farm yard); Fritillary Mews in 2007 with 26 new homes (on part of a former mill site); and Mill Meadow in 2017 with 24 (on a greenfield site).
- 5.18 The 2011 national census (Office of National Statistics) found that Ducklington contained 645 households. The current proposal is for up to 120 homes on a 6.3ha site. Taking into account permissions granted since 2011 for new dwellings in Ducklington, this development would result in an approximate increase of dwellings of 17%. Whilst the term 'limited' is not defined in the Local Plan, it is the view of officers that the addition of up to 120 dwellings would be more than limited. Having regard to the general principles to be applied to all forms of development, the proposal would be a disproportionate addition to the village and therefore contrary to policies OS2 and H2.
- 5.19 The Planning Statement accompanying the application questions whether West Oxfordshire has a five year supply of deliverable housing land. The Council has recently undertaken a review of the current situation (December 2021) and concludes it has a 5.3 year supply. Footnote 8 and Paragraph 11 of the NPPF are not therefore triggered; the local plan policies which are most important for determining the application are not out-of-date and can be afforded full weight.
- 5.20 Furthermore, the Housing Delivery Test (updated 14 January 2022) found from 2018-2021 West Oxfordshire required 1420 homes and delivered 2767. A Housing Delivery Test 2021 measurement of 195%.
- 5.21 Notwithstanding the above assessment, the proposal shall be assessed against the general principles of Policy OS2 in more detail below.

Siting, Design, Form and Landscape Impact

- 5.22 Paragraph 130 of the NPPF is clear that development proposals should function well and add to the overall quality of the area; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history including the surrounding built environment and landscape setting and create places that are safe, inclusive and accessible and have a high standard of amenity for existing and future users.
- 5.23 Policies OS2, OS4 and EH2 each require the character of the area to be respected and enhanced. The importance of achieving high quality design is reinforced in the National Design Guide. The village comprises a wide mix of buildings, with much of the original, historic core in the eastern part of the built-up area (close to the parish church, rectory, village green and pond) being nucleated in character. The historic built-form extends westward along Witney Road, taking on a

generally more linear character. These areas lie within the Ducklington Conservation Area. The bulk of the village lies to the west/south of Witney Road/Standlake Road and includes the areas built during the 1960s-80s. Much of the modern housing development has come forward since the 1990s by way of estate development of around 30 homes at a time.

- 5.24 The area of the village to the north is different in character to that in the south, being largely linear in nature, with limited development in-depth. Bartholomew Close is the main exception but this former farmyard lies within the historic village core where this character is more appropriate and only consists of 32 dwellings. For the most part, buildings along Witney Road are arranged fronting the street, many with gaps between buildings providing views towards rear gardens and/or open countryside, emphasising the relationship of the village with its surrounding rural landscape.
- 5.25 This rural landscape is one which reflects the village's location within the Windrush Valley. The West Oxfordshire Design Guide SPD identifies the Ducklington area as being low lying/floodplain within the Thames Vale. The Thames tributaries of the River Windrush and Queen Emma's Dyke flow north/south to the east of the village. The West Oxfordshire Landscape Assessment highlights the importance of the Windrush Valley in forming a strong edge to the village, the particular sensitivity of floodplain farmland to development and the need to retain and manage areas of floodplain pasture, water meadows and riparian vegetation and strengthen the landscape structure.
- 5.26 Looking specifically at The Moors, with its open nature, crossed by a series of drainage ditches, it clearly contributes to the 'floodplain pasture' character of the area and 'reads' as part of the wider landscape and countryside setting. The applicant's LVIA identifies that the proposed development will be 'highly noticeable' in terms of change to landscape character. This character was recognised by the Inspector for a recent planning appeal for development on a site immediately to the north of The Moors (20/01556/FUL - which was dismissed). The Inspector emphasised the 'notable gap' in built frontage at The Moors, its open fringe, connection to the countryside and its contribution to the 'attractive rural character and appearance of the area and the open setting around the outskirts of Ducklington'.
- 5.27 Not only do The Moors provide a valuable rural setting to Ducklington, the site forms part of the open countryside setting for the market town of Witney, the well-used country park immediately to the east and the River Windrush and its tributaries. This is an important gap which helps to retain the openness and rural character of the area, preventing the coalescence of the village with Witney and with the development around the A40 junction. The applicant's Planning Statement says that this land is not identified in the local plan as land to be safeguarded to prevent the coalescence of settlements. In this respect, it is important to note that the local plan does not identify any land for this purpose, making use of policies to ensure that development protects the character of the district instead.
- 5.28 The predominant built-form for the village in the north is linear in character, with a largely soft open relationship with the surrounding countryside. The proposed development, which would jut out of the settlement at an angle clearly contrary to the existing settlement pattern, would introduce an inappropriate urban form into a rural area and substantially change the relationship of the village to its countryside location, particularly the River Windrush and its tributaries.
- 5.29 The proposal does not respect the village character and local distinctiveness; it is not of a proportionate and appropriate scale to its context; would not form a logical complement to the

existing scale and pattern of development or the character of the area; would not avoid the coalescence of Witney and Ducklington; would not protect the local landscape or setting of Ducklington or Witney; and would involve the loss of an area of green space that makes an important contribution to the character and appearance of the area.

- 5.30 The proposal does not accord with the provisions of Policy OS2 of the Local Plan with regards to matters of character and appearance. Furthermore, the scheme would conflict with Policies OS4 and EH2 of the Local Plan, which, amongst other things, requires that development be of high quality design which contributes to local distinctiveness and conserves natural features.

Heritage Impacts

- 5.31 The grade II listed building 63 Witney Road is located 70m to the southwest of the site and the development may affect its setting. The Local Planning Authority is therefore statutorily required to have special regard to the desirability of preserving the building, its setting, and any features of special architectural or historic interest it may possess, in accordance with Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990.
- 5.32 In addition, Ducklington Conservation Area is located 50m to the southwest of the site at its nearest point. The Local Planning Authority is statutorily obliged to pay special attention to the desirability of preserving or enhancing the character or appearance of the area, in accordance with Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990.
- 5.33 Four non-designated heritage assets (locally listed buildings) are located between 85m and 95m to the west/south west of the site.
- 5.34 Local Plan Policy EH9 (Historic environment), EH10 (Conservation areas), EH11 (Listed Buildings) and EH16 (Non-designated heritage assets) are applicable to the scheme.
- 5.35 Section 16, in particular paragraphs 197, 199, 200, 202 and 203 of the National Planning Policy Framework (NPPF) are also applicable. Paragraph 202 is particularly relevant as this states 'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'.
- 5.36 The Ducklington Conservation Area Character Appraisal states 'whilst it appears that Ducklington began as a nucleated settlement, subsequent spread along what was once an arterial road had established a strong linear character by the 17th century.' This historic linear character survives today and contributes to the special interest and significance of the conservation area.
- 5.37 While the proposed development is outside of the conservation area, the pattern of development for Ducklington in the immediate area is linear. Along the main route in proximity of the development site, buildings are set in close proximity to the road and some are set gable-end on. There are some small front gardens and driveways present. The development along the eastern side of Witney Road closely follows this and has a strong relationship with the road and are not at a great depth. The proposed development, jutting out in a north easterly direction at depth would directly oppose this historic linear pattern of development. This would radically alter the pattern of development of Ducklington and would cause harm to the setting of the Ducklington Conservation Area.

- 5.38 The landscape around Ducklington is predominantly agricultural, particularly to the north of the village where the depth of built form is narrow. This rural character also makes a positive contribution to the setting of the Ducklington Conservation Area. The urbanisation of the development site would significantly erode the agricultural setting of the conservation area, causing harm to its setting.
- 5.39 Officers are mindful of the Grade II listed building and non-designated heritage assets (locally listed buildings) in relatively close proximity to the site. However, when considering the separation distances and built form between these heritage assets and the proposed development, officers are satisfied that the proposed development would not harm the settings of the listed or locally listed buildings.
- 5.40 Officers have identified harm to the setting of Ducklington Conservation Area by virtue of the loss of the agricultural setting and by altering the historic pattern of development. This harm is considered to be 'less than substantial', albeit at the higher end of less than substantial. Paragraph 202 of the NPPF states 'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'
- 5.41 In terms of public benefits, the proposed development would add up to 120 dwellings to West Oxfordshire Council housing stock. While WODC can demonstrate a five year supply of deliverable housing land, this is not a supply ceiling and officers are mindful of the Government's objective of significantly boosting the supply of homes (paragraph 60 of the NPPF).
- 5.42 Of the up to 120 dwellings, 40% (up to 48 homes) would be affordable homes. In addition, the planning Statement notes that an appropriate provision of self-build, including accessible and adaptable dwellings can be secured by planning condition. The provision of self-build, accessible and affordable dwellings will help to meet the Councils need for these units.
- 5.43 Economic benefits will arise from the construction of the development and economic benefits for Witney and the wider area are likely from the increase in population. However, these are commensurate with the scale of development.
- 5.44 In light of the less than substantial harm found to the setting of the Ducklington Conservation Area. Officers are satisfied, on balance, that the public benefits of the new homes (including the addition of self-build, accessible and affordable homes) and the economic public benefits found, outweigh the less substantial harm found to the conservation area.
- 5.45 The proposal therefore accords with Local Plan Policies EH9, EH10, EH11 and EH16 insofar as they apply to the impact of the proposed development on listed and locally listed buildings, and the conservation area.

Archaeology

- 5.46 Local Plan Policies EH9 (Historic environment), EH15 (Scheduled monuments and other nationally important archaeological remains), EH16 (Non-designated heritage assets) and OS4 (High quality design) all seek to conserve archaeology. Policy EH9 is clear in that 'archaeological remains.....are also irreplaceable, the presumption will be in favour of the avoidance of harm or loss'.

- 5.47 The County Council Archaeologist commented that the site is located 700m from Gill Mill Quarry, which is an area of considerable archaeological interest. Iron Age, Roman, Mesolithic and Neolithic settlements have been recorded in and around Gill Mill Quarry along with Bronze Age settlement and ritual features. In addition, cropmarked sites have been found in the immediate vicinity of the development site.
- 5.48 The applicant submitted an archaeological desk based assessment to support the application. However, the County Council Archaeologist found this to be inadequate for a number of reasons and recommended that 'in the absence of an evaluation report we would recommend that planning permission is not granted for this development'.
- 5.49 The Applicant subsequently submitted a geophysical survey report to attempt to address the objection from the County Council Archaeologist. However, the Archaeologist stated the 'geophysical survey report on its own does not provide the level of information we require in order to be able to fully assess the impact of his proposed development on any historic environment features in line with the NPPF, paragraph 199. In the absence of an evaluation report we would recommend that planning permission is not granted for his development'.
- 5.50 Paragraph 194 of the NPPF states 'where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation'. In the absence of an acceptable desk-based assessment and archaeological evaluation, the Council is unable to assess the impact of the scheme on any archaeological interest in the area.
- 5.51 Whilst the Applicant is content to accept conditions securing the necessary archaeological investigation before development commences, this would not be appropriate as the field evaluation may find remains that warranted preservation in-situ, which may affect the quantum of development that can be accommodated on the site. In addition, the LPA is considering access as part of this outline application and this may be affected by the unknown archaeological interest. Should the access be negated by the findings of the archaeological investigation, in all likelihood, a different access position would require a fresh application.
- 5.52 It is likely, considering the amount and quality of archaeological interest in the immediate and wider area, that there may be archaeological remains in the development site. Policy EH9 is clear in that 'all applications which affect, or have the potential to affect, heritage assets will be expected to.....use appropriate expertise to describe the significance of the assets, their setting and historic landscape context of the application site, at a level of detail proportionate to the historic significance of the asset or area, using recognised methodologies and, if necessary, original survey. This shall be sufficient to understand the potential impact of the proposal on the asset's historic, architectural and archaeological features, significance and character.' As the required surveys have not been undertaken, officers cannot be certain of the significance of any archaeology in the area, and thus cannot assess how the proposed scheme would affect this significance. As explained above, it is not acceptable to secure these investigations via pre-commencement conditions and the application is therefore contrary to Local Plan Policies EH9, EH15, EH16 and OS4, which seek to conserve archaeology.

Highway Safety

- 5.53 OCC Highways initially objected to the scheme as insufficient information was provided to determine the application from a transport perspective. The applicant submitted further details, however, this has not overcome all of OCC Highways objections and as such, OCC Highways still object to the scheme.
- 5.54 The proposed vehicular access forming a new priority controlled junction off Witney Road, with a carriageway width of 5.5 metres and junction radii of 6 metres, with adjacent footways of 1.8m, is substandard. For pedestrians the minimum footway width should be 2m. In addition, the review of the proposed junction swept path analysis drawing shows that the access cannot accommodate the swept path of a standard refuse vehicle (with an overall length of 11.6m required). The Applicant has used a smaller vehicle (9.8m in length) for the drawing and the proposal is therefore unacceptable for the safe and efficient turning movements of refuse vehicles at the access junction.
- 5.55 Furthermore, the submitted visibility splays are not in accordance with the OCC Residential Design Guide Second Edition (2015).
- 5.56 Taking these points into consideration, the proposed access is inadequate as it does not provide sufficient visibility for vehicles exiting the site and does not provide safe and suitable access for all users, in particular pedestrians and cyclists. In addition, the access cannot accommodate a standard refuse vehicle.
- 5.57 OCC also requested a number of issues be addressed, including
- safety and accessibility of the A415 Ducklington Lane/ A40 slips/ A415/ New Close roundabout for people walking and cycling;
 - ensure that people cycling are provided for within the vicinity of the site, including connections to Ducklington village centre and Witney;
 - Wayfinding signs and directional road markings should be provided by the developer to support people walking and cycling through Moors Close to access Ducklington village centre;
 - Given the low-quality bus stops close to the development site, OCC requires the developer to provide bus stop improvements;
 - OCC seeks financial contributions for a travel plan monitoring fee; bus improvements; Public Rights of Way; and the A40 HIF scheme improvement package.
- 5.58 These points could be controlled at reserved matters and condition discharge submissions, through an appropriately worded clause in the planning obligation, and to enter into a S278 agreement and a S38 agreement to mitigate the impact of the development.
- 5.59 Some highways issues can be controlled as stated. However, the application is in outline and seeks to approve an access to the site. OCC Highways are not satisfied with the access as proposed. The access does not meet the minimum requirements for pedestrian use, does not account for cycle use, does not provide adequate visibility splays and does not provide sufficient access for a standard refuse vehicle. In addition, the applicant has not entered into a S106 agreement. As such, the proposed development conflicts with Policies T1, T2, and T3 of the West Oxfordshire Local Plan 2031 and the NPPF.

Drainage and Flood Risk

- 5.60 The eastern boundary of the site is within flood zones 2/3, however no dwellings are proposed in flood zone 2/3. The bulk of the site is within flood zone 1. However, officers note the number of comments submitted referencing that the site floods, particularly during winter months.
- 5.61 The Lead Local Flood Authority (LLFA) at OCC have raised no objections to the scheme and a surface water drainage scheme condition is recommended.
- 5.62 Thames Water (TWA) were consulted on the scheme. While they did comment, the comment stated 'Thames Area Sustainable Places team is unable to provide a detailed response to this application at this time. We are currently only providing bespoke responses to the highest risk cases'. Officers must therefore infer that the proposal is not 'high risk' as if it were, they would have commented.
- 5.63 It is acknowledged that the site is subject to localised surface water flooding. However, the relevant specialists at TWA and OCC have not raised any objections to the scheme. In the absence of evidence to the contrary, officers are satisfied that while the site does flood occasionally, it would be possible to introduce measures to alleviate this by way of an engineering solution and this does not constitute a reason for refusal in this instance.
- 5.64 Officers also note the number of comments received relating to foul drainage (sewerage) issues in the area. TWA have commented on this aspect of the scheme and are satisfied that there is capacity in the foul water sewerage network to accommodate the needs of the development. There are no objections in regards to foul drainage therefore.
- 5.65 In regards to water supply, Thames Water have identified that some capacity exists within the water network to serve 120 dwellings but beyond that upgrades to the water network will be required. TWA requested a condition that 'there shall be no occupation beyond the 120 dwelling until confirmation has been provided that either:- all water network upgrades required to accommodate the additional demand to serve the development have been completed; or- a development and infrastructure phasing plan has been agreed with Thames Water to allow additional development to be occupied'. Officers note this, however, the proposal is for up to 120 dwellings and TWA have made clear that existing infrastructure can accommodate the number of dwellings proposed. As this application is for up to 120 dwellings, the suggested condition is not necessary for this development as the number of dwellings will be controlled by the planning permission. Should further dwellings be sought on the site beyond 120, officers would apply the condition requested.
- 5.66 As the proposed dwellings will be in flood zone 1 and in light of the views of the relevant specialists. Officers are satisfied that the proposed development will not increase risk of flooding at the site or elsewhere.

Trees and Ecology

- 5.67 Local Plan Policy EH3 (Biodiversity and geodiversity) states 'the biodiversity of West Oxfordshire shall be protected and enhanced to achieve an overall net gain in biodiversity and minimise impacts on geodiversity'.

- 5.68 Paragraph 180 of the NPPF sets out a clear hierarchy for proposals affecting biodiversity. The hierarchy is to firstly, avoid harm; secondly, where this is not possible, to mitigate any harm on-site; thirdly, as a last resort, to compensate for any residual harm.
- 5.69 With regards to the site itself, officers would classify this as floodplain grazing marsh priority habitat. Should the site be developed, 4 hectares of species-poor semi-improved grassland (priority habitat floodplain grazing marsh), 25m of hedgerow (to facilitate access) and one small seasonal waterbody (pond) would be lost.
- 5.70 The submitted Ecological Report explains that compensation for habitat loss is incorporated into the green infrastructure proposals to include habitats that are of importance within the Conservation Target Area. This includes wetland that also serves a SUDS function with wildflower grassland, native scrub planting and a combination of amenity and wildflower grassland within the public open space. However, whilst this compensates for most of the habitat losses, the biodiversity metric calculations demonstrate that there would be an 18% reduction in biodiversity value. The ecological assessment concludes that the 10% biodiversity net gain (BNG) target can be met via a financial contribution through condition or S106 agreement to ensure conformity with Local Plan Policy EH3.
- 5.71 Natural England were consulted and they have not raised an objection subject to appropriate mitigation with regard to hydrological impacts on the nearby Ducklington Mead SSSI. They have identified that a detailed SUDS scheme is required at reserved matters stage to ensure that the downstream SSSI is protected and flow rates off the development area are not reduced from current levels. They are satisfied that this can be dealt with by planning condition or obligation.
- 5.72 Moving to protected species, the presence of rare/scarce species Barbastelle and Serotine bats, plus other species (Brown long-eared and Myotis species) that are particularly light sensitive, increases the importance of the site and the need to ensure that bats can continue to commute around the site post-development. The strengthening of existing boundary vegetation and a sensitive lighting strategy are therefore essential mitigation measures. Buffer zones alongside boundary vegetation and the 'dark corridors' should be retained for bats as part of the sensitive lighting strategy. The proposal includes 5 no. bat and 5 no. bird boxes installed on retained trees and/or built into the fabric of the proposed dwellings. However, 25% of new dwellings should incorporate either a bat or bird box, a total of 15 no. bat and 15 no. bird boxes are therefore required and this could be secured by condition.
- 5.73 The site lies partly within the amber zone of the great crested newt district licensing scheme modelled impact risk map and this highlights that there is moderate suitability for this species. However, there are no ponds within 500 metres of the site which are not restricted by barriers to movement such as the A40, A415 and the watercourses, including Emma's Dyke. Officers are therefore satisfied that no further surveys are required in relation to this species.
- 5.74 Impact to trees is acceptable with the application of suitable tree protection/replacement measures.
- 5.75 The proposed development is unlikely to result in the loss of protected species habitats. However, the development would lead to an 18% reduction in biodiversity value at the site and full on-site mitigation is not achievable. Compensation for residual harm is therefore required. In this regard, although The Environment Act 2021 has now passed, secondary legislation is required for it to be implemented. Therefore, the 10% biodiversity net gain requirement set out in the Act

is not yet law. Furthermore, Local Plan Policy EH3 and Paragraph 174 of the Framework, both seek a net gain in biodiversity without identifying a specific percentage. The applicant has stated that they are willing to agree off site biodiversity net gain of 10% through S106 financial contributions. This is above what is currently required by law and national or local policy.

- 5.76 Overall, the proposals would meet the biodiversity hierarchy as set out in Paragraph 180 of the NPPF. This is subject to further details that could be controlled at reserved matters and condition discharge submissions, and through an appropriately worded clause in the planning obligation. As such, the proposals would not have an unacceptable effect on biodiversity and the proposal accords with Policy EH3 in that regard. Indeed, arguably, while off site, the scheme is likely to improve biodiversity value when taken holistically.

Residential Amenities

- 5.77 As this application is outline, the size, position, orientation of dwellings are not being assessed. However, noise and disturbance can be considered. A number of objectors have referred to noise, disturbance and inconvenience arising from the construction of the proposed development. Such impacts are relatively short lived and can be mitigated by adherence to an agreed construction management plan.
- 5.78 Air quality is a factor in considering the acceptability of the proposal as regards the residential amenity of future occupiers of the site. The WODC Environmental Health Officer recognises this and requested further assessment in regards to the cumulative impacts of the scheme in relation to other development schemes. This further assessment was provided and the WODC Environmental Health Officer is now satisfied that the proposed development would not have an unacceptable impact on air quality either individually or cumulatively.
- 5.79 With regard to contaminated land and potential risk to human health. The WODC Technical Officer (Contamination) recommends that an intrusive site investigation, including a robust ground gas monitoring assessment will be required to characterise the conditions on site. This and the subsequent remediation scheme (should that be required)) can be secured by condition.
- 5.80 At this stage, officers do not have any concerns with regard to the impact to residential amenities from the development. Further assessment would be undertaken at the reserved matters stage.

Public Rights of Way

- 5.81 Public Rights of Way run through and adjacent to the site. A number of objections referenced the loss of connectivity between Ducklington and Witney via these PROW's, particularly for school children. However, an indicative plan is submitted to support the application and this details that the PROW's would be retained within the development and their condition improved. As such, this connectivity would not be lost.
- 5.82 Officers note that the PROW's would likely be inaccessible during the construction phase. However, this would be a short term impact. Officers are satisfied therefore that the proposed scheme would not result in the loss of Public Rights of Way and the connectivity between Ducklington and Witney and the wider PROW network would be retained.

Health and Wellbeing

- 5.83 The NPPF defines green infrastructure as 'a network of multi-functional green and blue spaces and other natural features, urban and rural, which is capable of delivering a wide range of environmental, economic, health and wellbeing benefits for nature, climate, local and wider communities and prosperity.'
- 5.84 Local Plan Policy EH4 states 'new development should.....avoid the loss, fragmentation loss of functionality of the existing green infrastructure network, including within the built environment, such as access to waterways, unless it can be demonstrated that replacement provision can be provided which will improve the green infrastructure network in terms of its quantity, quality, accessibility and management arrangements
- provide opportunities for walking and cycling within the built-up areas and connecting settlements to the countryside through a network of footpaths, bridleways and cycle routes
 - maximise opportunities for urban greening such as through appropriate landscaping schemes and the planting of street trees.'
- 5.85 Paragraph 92 (c) of the NPPF states 'planning policies and decisions should aim to achieve healthy, inclusive and safe places which.....enable and support healthy lifestyles, especially where this would address identified local health and well-being needs - for example through the provision of safe and accessible green infrastructure.'
- 5.86 The application site is a significant piece of green infrastructure that adjoins the built up area of Ducklington. A substantial number of objectors expressed how much value they place on the site for exercising, dog walking, and a space to play. With many noting that the site has a positive impact on physical and mental health and wellbeing, particularly through the COVID-19 pandemic. It is quite clear that this site is highly valued by the local community.
- 5.87 Officers are acutely mindful of the feelings of the local community. However, the site is privately owned and is not designated as 'public open space'. The site does not appear to fall under any designations that would protect its function as an area for community use, aside from the general policies in the plans that seek to protect areas such as this. It is noted that the PROW's would be improved and retained through the site. A children's play park would be included. Further pedestrian routes would be added through the site and the illustrative masterplan shows 2.64ha of public open space and green space (42% of the total site area) would be retained. Officers note that some of this 42% would be amenity land, trees and hedges, and land for Sustainable Drainage Solutions including swales and basins. As such, the figure of 42% is unlikely to be total usable space for the community. Nonetheless, public open space and routes through the site would be retained, and these routes would provide direct access to Witney Lake and Meadows Country Park, which is a 30 hectare Country Park owned and managed by Witney Town Council located just 500m from Ducklington.
- 5.88 Overall, while mindful of community feeling, when considering the retention of public space proposed, the new children's play park proposed, lack of formal designation as a community asset/public open space, improved and retained PROW's (which allow unimpeded access to the Country Park and PROW network beyond), and the number of alternate green spaces surround Ducklington in general, Officers are not satisfied that the LPA could substantiate a reason for refusal based on the loss of the site and the impact to health and wellbeing.

Sustainability

- 5.89 A sustainability assessment has been provided to the applicant; however, no response has been received and the proposed scheme has not been revised as a result. The application is for outline consent; however, further commitments are sought from the applicant to consider and achieve higher sustainability standards at the detailed design stage, than are currently being proposed.

S106 matters

- 5.90 Policy OS5 of the Local Plan seeks to ensure that new development delivers or contributes towards the provision of essential supporting infrastructure and Policy T3 states that new development will be expected to contribute towards the provision of new and/or enhanced public transport, walking and cycling infrastructure to help encourage modal shift and promote healthier lifestyles.
- 5.91 Policy H3 requires that 40% of the homes are provided as affordable housing. The Applicant proposes 40% Affordable Delivery on Site.
- 5.92 The Leisure Team in respect of Sport and Recreation provision requires £204,600 off-site contribution towards sports facilities within the catchment.
- 5.93 OCC Education has requested contributions of £1,451,459 broken down as follows:
- Early Years contribution £17,208
 - Primary education £679,608
 - Secondary education £701,784
 - Special schools £52,859
- 5.94 OCC seeks Household Waste Recycling Centre Contribution of £11,255.20.
- 5.95 OCC seeks a travel plan monitoring fee of £1,446.
- 5.96 OCC seeks £126,120 towards bus improvements.
- 5.97 OCC require a contribution at a rate is £2,233 per dwelling towards the A40 HIF scheme improvement package. Totalling £267,960.
- 5.98 OCC require the Applicant to enter into a S278 agreement and a S38 agreement to mitigate the impact of the development.
- 5.99 Countryside Enhancements related to the Lower Windrush Valley Project amount to £18,634.
- 5.100 Contribution towards capital infrastructure improvement projects for the Lower Windrush Valley area amount to £18,061.
- 5.101 10% biodiversity net gain target to be met via a financial contribution to meet the requirements of EH3 and the NPPF.
- 5.102 A legal agreement will be required to secure the provision and management of Public Open Space and Green Infrastructure.

- 5.103 The applicant has not entered into a legal agreement or agreements to secure the provision of affordable housing; or contributions to sport and leisure; public transport; highways improvement schemes; education; waste; biodiversity net gain; or the Lower Windrush Valley Project. The proposal therefore conflicts with West Oxfordshire Local Plan 2031 Policies H3, EH3, EH4, EH5, T1, T2, T3 and OS5.

Conclusion and Planning Balance

- 5.104 The development has an unknown impact to archaeology. As the required surveys have not been undertaken, officers cannot be certain of the significance of any archaeology in the area, and thus cannot assess how the proposed scheme would affect this significance. As explained above, it is not possible to secure these investigations via pre-commencement conditions and the application is therefore contrary to Local Plan Policies EH9, EH15, EH16 and OS4, and the NPPF.
- 5.105 The proposed development is not acceptable in transport terms. The proposed access is inadequate as it does not provide sufficient visibility for vehicles exiting the site and does not provide safe and suitable access for all users, in particular pedestrians and cyclists. In addition, the access cannot accommodate a standard refuse vehicle. The application is therefore contrary to Local Plan Policies T1, T2, T3 and the NPPF.
- 5.106 The proposal would create new public open space and a play area for children, hard and soft landscaping, including the retention of existing trees and the planting of new street trees. However, this is significantly mitigated, as the development site is an important piece of green infrastructure that is highly valued by the local community and the majority would be lost through the development. This is therefore neutral, and does not attract any weight.
- 5.107 The proposed development would harm the setting of Ducklington Conservation Area by virtue of the loss of the agricultural setting and by altering the historic pattern of development. However, officers are satisfied, on balance, that the public benefits of the new homes (including the addition of self-build, accessible and affordable homes) and the economic public benefits found, outweigh the less substantial harm found to the Ducklington Conservation.
- 5.108 The proposed development would result in economic benefits to the local area during the construction phase and when the development is occupied by future residents by increasing the spending power in the area. Financial contributions to local services/infrastructure through a Section 106 agreement is also a positive impact. Overall, these attract significant weight.
- 5.109 There would be a loss of on-site biodiversity of around 18%. However, subject to control through reserved matters and condition discharge submissions, and through an appropriately worded clause in the planning obligation, a 10 % biodiversity net gain would be achieved. Officers acknowledge that this is above the minimum requirements. However, this attracts moderate weight commensurate with the scale of development.
- 5.110 The applicant has not entered into a legal agreement or agreements to secure the provision of affordable housing; or contributions to sport and leisure; public transport; highways improvement schemes; education; waste; biodiversity net gain; or the Lower Windrush Valley Project. The proposal conflicts with West Oxfordshire Local Plan 2031 Policies H3, EH3, EH4, EH5, T1, T2, T3 and OS5.

- 5.111 The Council has recently undertaken a review (December 2021) and concludes it has a 5.3 year supply. Footnote 8 and Paragraph 11 of the NPPF are not therefore engaged; and the local plan policies which are most important for determining the application are not out-of-date and can be afforded full weight.
- 5.112 Policy H2 permits new dwellings on undeveloped land adjoining the built up area where 'convincing evidence is presented to demonstrate that it is necessary to meet identified housing needs, it is in accordance with the distribution of housing set out in Policy H1 and is in accordance with other policies in the plan in particular the general principles in Policy OS2'.
- 5.113 The proposed development would add up to 120 dwellings to West Oxfordshire Council housing stock. While WODC can demonstrate a five year supply of deliverable housing land, this is not a supply ceiling and officers are mindful of the Government's objective of significantly boosting the supply of homes (paragraph 60 of the NPPF). Furthermore, of the up to 120 dwellings, 40% (up to 48 homes) would be affordable homes. In addition, the planning Statement notes that an appropriate provision of self-build, including accessible and adaptable dwellings could be secured by condition.
- 5.114 The contribution to self-build, including accessible and adaptable homes only carries modest weight commensurate with the scale of development. However, officers are aware that as of November 2021, 192 applicants were registered on the Council's Homeseeker+ system to rent a home in Ducklington. A contribution of up to 48 affordable homes would meet 25% of this identified need. While this provision is merely policy complaint, and does not seek to deliver above the minimum that is required, this provision carries significant weight.
- 5.115 With regard to the general principles in Policy OS2. The proposal does not respect the village character and local distinctiveness; it is not of a proportionate and appropriate scale to its context; would not form a logical complement to the existing scale and pattern of development or the character of the area; would not avoid the coalescence of Witney and Ducklington; would not protect the local landscape or setting of Ducklington or Witney; and would involve the loss of an area of green space that makes an important contribution to the character and appearance of the area. This is a clear conflict with strategic housing policies H2 and OS2 and therefore carries substantial weight.
- 5.116 Turning to the planning balance. Up to 120 homes would be added to West Oxfordshire Council stock. In addition, the proposal accords with H2 and H3 insofar as the proposal would help to meet some affordable housing need in Ducklington, and the wider district. The development would result in economic benefits to the local area both during construction and beyond; and biodiversity net gain would be achieved off site (but lost on site). Harm to the setting of the Ducklington Conservation Area is found, on balance, to be outweighed by the public benefits of the scheme.
- 5.117 However, new public open space and a play area for children, and new hard and soft landscaping would be cancelled out by the loss of existing green infrastructure. There is clear conflict with Local Plan Policies T1, T2, T3 and the NPPF owing to the transport issues identified. There is also clear conflict with Local Plan Policies EH9, EH15, EH16 and OS4, and the NPPF as a result of the unknown archaeological impact. There is conflict with Policy OS2 of the Local Plan with regards to matters of character and appearance and as the proposal is not considered to be 'limited development'. The proposal also conflicts with Policy H2 as explained. As policies H2 and OS2 are the strategic policies that govern the acceptability of housing developments, this conflict is

substantial. Furthermore, the scheme would conflict with Policies OS4 and EH2, which, amongst other things, requires that development be of high quality design which contributes to local distinctiveness and conserves natural features. In addition, the applicant has not entered into a legal agreement.

5.118 The benefits of the scheme outlined do not overcome the clear conflict when assessed against the Local Plan as a whole. The application is therefore recommended for refusal.

6 REASONS FOR REFUSAL

1. The proposed development is not limited development which respects the village character and local distinctiveness. It is not of a proportionate and appropriate scale to its context; would not form a logical complement to the existing scale and pattern of development or the character of the area; would not avoid the coalescence of Witney and Ducklington; would not protect the local landscape or setting of Ducklington or Witney; and would involve the loss of an area of green space that makes an important contribution to the character and appearance of the area. While the development would provide some economic benefits, would add up to 120 homes to West Oxfordshire Housing stock, would meet some of the affordable housing need in Ducklington, and would create off site biodiversity net gain. These benefits are insufficient to outweigh the clear conflict with the Development Plan as a whole. As such, the proposed development is contrary to policies H2, OS2, OS4 and EH2 of the adopted West Oxfordshire Local Plan 2031, the West Oxfordshire Design Guide 2016, the National Design Guide 2019, and the relevant paragraphs of the National Planning Policy Framework 2021.
2. The proposed access does not provide adequate visibility splays or refuse vehicle access to the detriment of highway safety. In addition, the proposed development does not provide safe and suitable access for all users, in particular pedestrians and cyclists. As such, the proposed development is contrary to Local Plan Policies T1, T2 and T3 of the West Oxfordshire Local Plan; and Section 9 of the NPPF 2021.
3. The site has a strong possibility of containing remains of archaeological importance. The submitted desk-based assessment is inadequate and the application is not supported by an archaeological evaluation. As the required surveys have not been undertaken, officers cannot be certain of the significance of any archaeology in the area, and thus cannot assess how the proposed development would affect this significance. As such, the proposed development conflicts with Local Plan Policies EH9, EH15, EH16 and OS4; and the relevant paragraphs of the NPPF.
4. The applicant has not entered into a legal agreement or agreements to secure the provision of affordable housing; or contributions to sport and leisure; public transport; highways improvement schemes; education; waste; biodiversity net gain; or the Lower Windrush Valley Project. The proposal conflicts with West Oxfordshire Local Plan 2031 Policies H3, EH3, EH4, EH5, T1, T2, T3 and OS5.

Contact Officer: David Ditchett
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Date: 16th February 2022

West Oxfordshire District Council – DELEGATED ITEMS

Application Types Key

<u>Suffix</u>		<u>Suffix</u>	
ADV	Advertisement Consent	LBC	Listed Building Consent
CC3REG	County Council Regulation 3	LBD	Listed Building Consent - Demolition
CC4REG	County Council Regulation 4	OUT	Outline Application
CM	County Matters	RES	Reserved Matters Application
FUL	Full Application	S73	Removal or Variation of Condition/s
HHD	Householder Application	POB	Discharge of Planning Obligation/s
CLP	Certificate of Lawfulness Proposed	CLE	Certificate of Lawfulness Existing
CLASSM	Change of Use – Agriculture to Commercial	CND	Discharge of Conditions
HAZ	Hazardous Substances Application	PDET28	Agricultural Prior Approval
PN42	Householder Application under Permitted Development legislation.	PN56	Change of Use Agriculture to Dwelling
PNT	Telecoms Prior Approval	POROW	Creation or Diversion of Right of Way
NMA	Non Material Amendment	TCA	Works to Trees in a Conservation Area
WDN	Withdrawn	TPO	Works to Trees subject of a Tree Preservation Order
		FDO	Finally Disposed Of

<u>Decision Code</u>	<u>Description</u>	<u>Decision Code</u>	<u>Description</u>
APP	Approve	RNO	Raise no objection
REF	Refuse	ROB	Raise Objection
PIREQ	Prior Approval Required	P2NRQ	Prior Approval Not Required
P3APP	Prior Approval Approved	P3REF	Prior Approval Refused
P4APP	Prior Approval Approved	P4REF	Prior Approval Refused

West Oxfordshire District Council – DELEGATED ITEMS Week Ending 25th January 2022

Application Number.	Ward.	Decision.
I. 20/00140/FUL	Eynsham and Cassington	SI06
Erection of a new office building, warehouse and starter units development in a mix of B1 (E(g)) and B8 use class, plus associated car parking, cycle parking landscaping and re-positioning of vehicular access into the site off Stanton Harcourt Road Unit 2-3 Stanton Harcourt Road Eynsham SDC		

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| 2. | 21/01746/FUL | Alvescot and Filkins | WDN |
| | <p>Provision of an estate yard and construction of two detached buildings comprising plant rooms and meeting room/offices together with associated facilities. Installation of ground source heat pumps and formation of new vehicular access and entrance gates.</p> <p>Land At Cuckoo Pen Farm Westwell
Mr K Tyson</p> | | |
| 3. | 21/01866/LBC | Hailey, Minster Lovell and Leafield | APP |
| | <p>Replace the top hinged opening lights in four front ground floor windows. Existing horizontal tongue and grooved wood ceiling and joists removed in the single storey at the right hand end of the property exposing the roof rafters and purlins. Above underside of rafters clad in wood fibre tongue and groove insulation board and finished with lime plaster to form vaulted ceiling.</p> <p>White Hart Inn Burford Road Minster Lovell
Mr Richard Burkett</p> | | |
| 4. | 21/02220/CLE | Carterton North West | WDN |
| | <p>Certificate of Lawfulness (to allow the continued use of land for the storage of building materials, plant and commercial vehicles, along with ongoing repairs to commercial vehicles, plant and agricultural machinery)</p> <p>Sunset View Upavon Way Carterton
Mr Jonathan Hayes</p> | | |
| 5. | 21/02466/HHD | Standlake, Aston and Stanton Harcourt | WDN |
| | <p>Affecting a Conservation Area</p> <p>Erection of a detached car port</p> <p>1 Griffiths Close Northmoor Witney
Mr Steven Berry</p> | | |
| 6. | 21/02589/FUL | Alvescot and Filkins | WDN |
| | <p>Affecting a Conservation Area</p> <p>Construction of detached dwelling with associated works and access. (Amended plans)</p> <p>5 Thorpes Field Alvescot Bampton
Mr Andy Guy</p> | | |

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| 7. | 21/02592/HHD | Standlake, Aston and Stanton
Harcourt | REF |
| <p>Erection of two storey rear and side extensions. Installation of new heating system and reconfiguration of first floor</p> <p>2 Linch Hill Cottages Linch Hill Stanton Harcourt</p> <p>Mr Maddocks</p> | | | |
| 8. | 21/02617/CND | Witney South | APP |
| <p>Discharge of condition 6 (details of the access between the land and the highway) of planning permission 20/03470/HHD</p> <p>127 Colwell Drive Witney Oxfordshire</p> <p>Mr B Dickson</p> | | | |
| 9. | 21/02920/FUL | Witney Central | WDN |
| <p>Affecting a Conservation Area</p> <p>Construction of dwelling and detached outbuilding comprising garaging and garden shed with storage above.</p> <p>Land To The Rear Of 96 High Street Witney</p> <p>Mr Robert Viner</p> | | | |
| 10. | 21/02931/FUL | Witney East | APP |
| <p>Affecting a Conservation Area</p> <p>Replace existing first floor rear window with door and installation of fire escape stairs.</p> <p>The Griffin Inn 166 Newland Witney</p> <p>Wadworth And Co</p> | | | |
| 11. | 21/02932/LBC | Witney East | APP |
| <p>Affecting a Conservation Area</p> <p>Internal and external alterations to replace existing first floor rear window with door and installation of fire escape stairs.</p> <p>The Griffin Inn 166 Newland Witney</p> <p>Wadworth And Co</p> | | | |
| 12. | 21/02991/CND | North Leigh | APP |
| <p>Discharge of condition 7 (specialist conservator's report) of planning permission 20/01757/LBC</p> <p>Eynsham Hall North Leigh Witney</p> <p>C/O Agent</p> | | | |

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| 13. | 21/02998/HHD
Affecting a Conservation Area

Proposed Summer House (Amended)
Old Rectory Broughton Poggs Lechlade
Mr & Mrs Chauveau | Alvescot and Filkins | APP |
| 14. | 21/03085/HHD
Affecting a Conservation Area

Erection of single storey rear and side extensions together with construction of rear pergola.
321 Manor Road Witney Oxfordshire
Mr And Mrs Matt Freeman | Witney East | APP |
| 15. | 21/03109/HHD

Replace existing conservatory roof with lightweight Solstice Warm Roof
14 Birch Drive Bradwell Village Burford
Mr And Mrs Parker | Brize Norton and Shilton | APP |
| 16. | 21/03136/FUL

Erection of two semi-detached dwellings together with associated works.
Kielder 48 Station Road Brize Norton
Mr Daniel Bond | Brize Norton and Shilton | WDN |
| 17. | 21/03144/CND

Discharge of condition 3 (samples of all external materials) of planning permission
19/01785/S73
Land South Of Eynsham Nursery And Plant Centre Old Witney Road Eynsham
Mr Chris Brotherton | Eynsham and Cassington | REF |
| 18. | 21/03147/HHD

Erection of a single storey rear and two storey side extension along with construction of a front porch. Works to include erection of a detached pool house, construction of an outdoor pool along with the formation of a new access and associated landscaping works.
Sunnyside Witney Road Ramsden
Mr And Mrs Jennings | Hailey, Minster Lovell and Leafield | APP |

19. **21/03177/CND** Hailey, Minster Lovell and APP
Leaffield
Affecting a Conservation Area

Discharge of condition 6 (full surface water drainage scheme), condition 9 (Trees in Relation to design, demolition and construction), condition 12 (lighting design strategy for biodiversity) and condition 13 (integrated nesting opportunities for birds) of planning permission 21/00866/FUL
Cotswold Edge Lower End Ramsden
Guy And Kathryn Wengraf
20. **21/03193/FUL** Witney Central REF

Construction of detached dwelling and formation of new access onto Springfield Park.
2 Springfield Park Witney Oxfordshire
Mr Chris Durici
21. **21/03217/CND** Eynsham and Cassington APP

Discharge of conditions 11 (roads, driveways, parking and pathways) and 14 (visibility splays) of planning permissions 15/00761/FUL and 19/01785/S73.
Land South Of Eynsham Nursery And Plant Centre Old Witney Road Eynsham
Mr Chris Brotherton
22. **21/03247/CND** Ducklington APP

Discharge of condition 5 of permission 21/01485/FUL (Environmental site investigation)
Peashell Farm Downs Road Curbridge
Mr Chris Strainge
23. **21/03278/ADV** Bampton and Clanfield WDN

Erection of two non-illuminated freestanding signs.
J B S Nurseries Buckland Road Bampton
Mr Richard Stevens
24. **21/03364/FUL** Ducklington REF

Erection of a detached garage building with home office above. Change of use of land to increase the domestic curtilage and form an access to garage.
Pond View Duttons Farm Barns Lew Road
Mr R Drake

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| 25. | 21/03396/CLP | Carterton North West | APP |
| | <p>Certificate of Lawfulness (erection of a porch)
 50 Richens Drive Carterton Oxfordshire
 Mr Phil Caswell</p> | | |
| 26. | 21/03406/HHD | Witney South | APP |
| | <p>Renovation and remodelling to including proposed extension (amended plans)
 37 Saxon Way Witney Oxfordshire
 Mr David Miles</p> | | |
| 27. | 21/03420/HHD | Hailey, Minster Lovell and Leafield | APP |
| | <p>Erection of side and rear extensions (Amended).
 7 Bushey Ground Minster Lovell Witney</p> | | |
| 28. | 21/03437/CND | North Leigh | APP |
| | <p>Discharge of conditions 8 (site investigation of the nature and extent of contamination), 10 (Construction Environmental Management Plan), 16 (full surface water drainage scheme) and 17 (Trees in Relation to design, demolition and construction) of planning permission 18/01973/FUL
 Land West Of Ferndale New Yatt Road North Leigh
 Mr Wright</p> | | |
| 29. | 21/03490/HHD | Hailey, Minster Lovell and Leafield | APP |
| | <p>Single story rear extension to extend kitchen
 Charterville House Burford Road Minster Lovell
 Mr and Mrs Gardner</p> | | |
| 30. | 21/03503/FUL | North Leigh | APP |
| | <p>Demolition of existing bungalow and erection of a dwelling with detached garage
 26 Park Road North Leigh Witney
 Mr Robert Sutton</p> | | |
| 31. | 21/03504/HHD | Carterton South | APP |
| | <p>Single storey extension to front to form ground floor toilet and wheelchair access (amended)
 63 Mayfield Close Carterton Oxfordshire
 Miss S Davies</p> | | |

32. **21/03529/HHD** Standlake, Aston and Stanton Harcourt APP
Conversion of roof space above garage to create extra living space
11 Park Farm Place Northmoor Witney
Mrs Moran
33. **21/03536/CLP** Eynsham and Cassington APP
Certificate of Lawfulness (Alterations to include construction of box dormers to create addition living space and alterations to rear patio doors)
26 John Lopes Road Eynsham Witney
Yolanda Warren
34. **21/03550/HHD** Witney West APP
Single storey front extension to enlarge kitchen, loft conversion to provide additional ensuite bedroom, and add bifolding doors to rear
34 Westcote Close Witney Oxfordshire
P Zagya and M Nagy
35. **21/03571/HHD** Witney East APP
Construction of tiled outdoor hot tub with retaining walls (retrospective)
11 Oakdale Lane Witney Oxfordshire
Mr Richard Perrin
36. **21/03573/HHD** Witney North APP
Affecting a Conservation Area
Demolition of existing sunroom, erection of new garden room extension, minor internal alterations and proposed internal openings.
Witney House 17 West End Witney
Mr and Mrs N and R Hough
37. **21/03574/LBC** Witney North APP
Affecting a Conservation Area
Demolition of existing sunroom, erection of new garden room extension, minor internal alterations and proposed internal openings.
Witney House 17 West End Witney
Mr and Mrs N and R Hough

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| 38. | 21/03575/CND | Standlake, Aston and Stanton
Harcourt | APP |
| <p>Discharge of conditions 10 (landscape management plan), 11 (full surface water drainage scheme), 14 (scheme for the improvement of the adjacent bridle way), 17 (amended details of bird boxes, bat boxes and hedgehog gaps), 18 (amended details of a comprehensive landscaping scheme) and 21 (detailed specifications of grey water systems and rainwater recycling provision) of planning permission 21/00622/FUL</p> <p>Croft Farmhouse 77 Abingdon Road Standlake
Mr D Moffat</p> | | | |
| 39. | 21/03584/S73 | Ducklington | APP |
| <p>Variation of condition 3 of planning permission 20/01030/HHD to allow walls to be finished in render in place of facing brick. (Retrospective).</p> <p>12 Moors Close Ducklington Witney
Mr Ian Halfpenny</p> | | | |
| 40. | 21/03594/FUL | Witney Central | APP |
| <p>Affecting a Conservation Area</p> <p>Temporary change of use from shop to store room for use by Scouts and church.</p> <p>33A High Street Witney Oxfordshire
Mr David Kinchin</p> | | | |
| 41. | 21/03598/CLP | Standlake, Aston and Stanton
Harcourt | APP |
| <p>Affecting a Conservation Area</p> <p>Certificate of lawfulness (Erection of a single storey rear extension and alterations)</p> <p>Spindrift 46 Bull Street Aston
Mr and Mrs Norton</p> | | | |
| 42. | 21/03600/LBC | Bampton and Clanfield | APP |
| <p>Affecting a Conservation Area</p> <p>Install skeleton clock with 2 faces, one on south and one on west side of town hall.</p> <p>Bampton Town Hall Market Square Bampton
Cathy Street</p> | | | |
| 43. | 21/03610/HHD | Hailey, Minster Lovell and
Leafeld | APP |
| <p>Two storey side extension with single storey rear extension and conversion of garage to accommodation.</p> <p>59 Wenrisc Drive Minster Lovell Witney
Mr And Mrs George Day</p> | | | |

44. **21/03606/S73** Witney East APP
 Variation of condition 2 of planning permission 18/00659/HHD to allow retrospective loft conversion as built.
32 Judds Close Witney Oxfordshire
 Mr Craig Foster
45. **21/03607/FUL** Standlake, Aston and Stanton APP
 Harcourt
 Construction of replacement dwelling and detached garage together with associated works including relocation of vehicular access.
Touchdown 108 Abingdon Road Standlake
 Cruikshank
46. **21/03608/LBC** Alvescot and Filkins APP
 Affecting a Conservation Area
 Repair existing windows, replace new for old windows, new rear access door and addition of side entrance and entrance porch including repair and new roofing and minor internal alterations
Home Farm Kelmscott Lechlade
 McHale
47. **21/03612/HHD** Bampton and Clanfield APP
 Chimney Flue to serve new wood burning stove.
Culfre Bampton Road Clanfield
 Ms. Sophie Gosling
48. **21/03617/HHD** Hailey, Minster Lovell and APP
 Leaffield
 Affecting a Conservation Area
 Erection of a detached garden room
Blenheim Cottage Poffley End Hailey
 Mr And Mrs M Snowdon
49. **21/03618/CND** Bampton and Clanfield APP
 Discharge of conditions 5 (amended details of bird and bat boxes), 6 (lighting design strategy for biodiversity) and 7 (comprehensive landscape scheme) of planning permission 21/00447/FUL
Long Meadow Main Street Clanfield
 Ms Clare Mowbray

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| 50. | 21/03620/S73 | North Leigh | APP |
| | <p>Variation of condition 25 of planning permission 20/01756/FUL to allow amendments to the drainage strategy
 Eynsham Hall North Leigh Witney
 Ennismore Ltd</p> | | |
| 51. | 21/03636/CND | Ducklington | APP |
| | <p>Discharge of condition 5 (details of bat roosting and nesting opportunities for birds) of planning permission 21/02177/HHD
 1 Nursery Cottage Malthouse Nurseries Main Road
 Mr & Mrs Absolon</p> | | |
| 52. | 21/03639/CLP | Carterton South | APP |
| | <p>Certificate of Lawfulness (erection of a single storey rear extension, conversion of loft space and the installation of two front and rear roof light windows).
 23 Clarkston Road Carterton Oxfordshire
 Mrs Izabela Pelko</p> | | |
| 53. | 21/03640/HHD | Ducklington | APP |
| | <p>Erection of detached 3 bay car port with garden store
 Far Horizons Lew Bampton
 Mr Francis Goody</p> | | |
| 54. | 21/03650/HHD | Brize Norton and Shilton | APP |
| | <p>Loft conversion including 3 dormer windows to the front and 4 velux rooflights and 1 dormer window to the rear
 Westfield Farm Shilton Burford
 Mr & Mrs Pollington</p> | | |
| 55. | 21/03667/HHD | Eynsham and Cassington | APP |
| | <p>Two storey side extension
 36A Evans Road Eynsham Witney
 Mr Shaun Rowland</p> | | |
| 56. | 21/03662/FUL | Witney South | APP |
| | <p>Construction of new dwelling with associated works and alterations to existing vehicular access.
 190 Colwell Drive Witney Oxfordshire
 Mr S Forde</p> | | |

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| 57. | 21/03666/FUL | Brize Norton and Shilton | APP |
| <p>Erection of a canopy over external seating area (Retrospective)
 Humble Bumble Cafe The Pavilion Station Road
 Mrs Beverley Campion</p> | | | |
| 58. | 21/03671/HHD | Standlake, Aston and Stanton
Harcourt | APP |
| <p>Erection of a detached garden room
 15 Park Farm Place Northmoor Witney
 Dr and Mrs Lowther</p> | | | |
| 59. | 21/03672/CLP | Eynsham and Cassington | APP |
| <p>Certificate of Lawfulness (to allow the development of works approved under 19/02095/S73 to be noted as extant due to work commencing by way of a material operation - change of use of first floor to provide additional guest accommodation and the building works to facilitate this).
 The Evenlode Old Witney Road Eynsham
 Mr Dan Shotton</p> | | | |
| 60. | 21/03673/HHD | Witney Central | APP |
| <p>Affecting a Conservation Area</p> <p>Single storey flat roof rear extension and removal of conservatory
 36 Gloucester Place Witney Oxfordshire
 Sarah and David Willans</p> | | | |
| 61. | 21/03708/S73 | Witney South | APP |
| <p>Non compliance of condition 2 of planning permission 20/02066/FUL to allow alterations to the location of the exhaust stack.
 Unit 1 Cranbrook Court Avenue Two
 Mr Mahmoud El Sharkawy</p> | | | |
| 62. | 21/03701/HHD | Eynsham and Cassington | REF |
| <p>Affecting a Conservation Area</p> <p>Conversion of attic space along with the construction of dormer windows to front elevation
 26 Hazeldene Close Eynsham Witney
 Mrs Donna Worboys</p> | | | |

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| 63. | 21/03703/HHD | Eynsham and Cassington | APP |
| | <p>Erection of single storey extensions to enlarge lounge and utility room, including provision of WC. Construction of covered walkway to side entrance. Replace existing garage roof with pitched roof.</p> <p>2 The Tennis Cassington Witney
Mr And Mrs Metcalf</p> | | |
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| 64. | 21/03717/HHD | Bampton and Clanfield | APP |
| | <p>Conversion of workshop to create studio/home office, relocation of oil tank and alterations and extension to existing tool shed.</p> <p>Mill Farm House Mill Farm Bampton Road
Dr Keri Thomas O.B.E</p> | | |
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| 65. | 21/03718/LBC | Bampton and Clanfield | APP |
| | <p>Internal and external alterations to convert existing workshop into a studio/home office, relocation of oil tank and alterations and extension to existing tool shed.</p> <p>Mill Farm House Mill Farm Bampton Road
Dr Keri Thomas O.B.E</p> | | |
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| 66. | 21/03719/CLP | Carterton North East | WDN |
| | <p>Certificate of Lawfulness (construction of a car park comprising of fifteen parking bays)</p> <p>Street Record Bovington Road Carterton
Mr Andrew Gibbs</p> | | |
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| 67. | 21/03721/CLP | Eynsham and Cassington | APP |
| | <p>Certificate of Lawfulness (Alternations to the pitches, material type and amalgamation of existing roofs over existing rear extension and conservatory. Replacement of existing glazing to conservatory with exterior wall and new glazing. Roof lights to new roof over existing extension and conservatory).</p> <p>27 Hanborough Road Eynsham Witney
Mr John Green</p> | | |
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| 68. | 21/03725/CLP | Ducklington | APP |
| | <p>Certificate of Lawfulness (Conversion of attached garage)</p> <p>46 Manor Road Ducklington Witney
Mr A Bennett</p> | | |

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| 69. | 21/03730/CLP | Eynsham and Cassington | APP |
| | <p>Certificate of Lawfulness (Erection of a single storey rear extension)
 6 Shakespeare Road Eynsham Witney
 Mrs Beck</p> | | |
| 70. | 21/03741/CND | Eynsham and Cassington | APP |
| | <p>Discharge of condition 6 (details of external windows and doors) of planning permission
 21/02012/HHD
 Shuttles Cottage Chapel Road South Leigh
 Mr And Mrs N Baish</p> | | |
| 71. | 21/03742/CND | Eynsham and Cassington | APP |
| | <p>Discharge of condition 5 (details of external windows and doors) of planning permission
 21/03090/HHD
 Shuttles Cottage Chapel Road South Leigh
 Mr And Mrs N Baish</p> | | |
| 72. | 21/03744/HHD | Witney East | APP |
| | <p>Two Storey Side Extension & Replacement Porch. Removal of existing garage.
 88 Woodstock Road Witney Oxfordshire
 Mr & Mrs Llody-Reade</p> | | |
| 73. | 21/03752/CLP | Witney North | APP |
| | <p>Certificate of lawfulness (Conversion of garage with construction of a pitched roof)
 25 Early Road Witney Oxfordshire
 Mrs Lindsay Oxtoby</p> | | |
| 74. | 21/03753/HHD | Bampton and Clanfield | APP |
| | <p>Construct one dormer and form loft conversion to form bedroom (Amended plans and drawings)
 2 Giles Place Bampton Oxfordshire
 Ms R Barnard</p> | | |
| 75. | 21/03762/HHD | Brize Norton and Shilton | APP |
| | <p>Affecting a Conservation Area

 Interior and external alterations
 The Forge Hollow Way Shilton
 Mr Andrew Pearson</p> | | |

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| 76. | 21/03764/LBC
Affecting a Conservation Area

Interior and external alterations
The Forge Hollow Way Shilton
Mr Andrew Pearson | Brize Norton and Shilton | APP |
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| 77. | 21/03766/S73
Affecting a Conservation Area

Variation of condition 2 of planning permission 19/01267/FUL to allow minor amendments to the roof design and window arrangement.
Park Farm Lower End Alvescot
Mr Joe Harter | Alvescot and Filkins | APP |
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| 78. | 21/03772/HHD

Two storey side extension
34 Foxcroft Drive Carterton Oxfordshire
Mr & Mrs W Smaldon | Carterton South | APP |
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| 79. | 21/03786/CLP

Certificate of lawfulness (loft conversion to include front and rear rooflights and rear dormer with Juliet balcony).
115 Wadards Meadow Witney Oxfordshire
Mr Scott Hughes | Witney East | APP |
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| 80. | 21/03793/CND

Discharge of condition 4 (roof sample) of planning permission 20/01338/FUL
Land Opposite Windrush Drive Cottage Burford Road Minster Lovell
Chris Hayter | Ducklington | APP |
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| 81. | 21/03797/HHD

Erection of a conservatory to rear elevation
44 Broadway Close Witney Oxfordshire
Dr Helen Curtis | Witney West | APP |

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| 82. | 21/03800/LBC
Affecting a Conservation Area | Bampton and Clanfield | APP |
| | Retrospective application for Listed Building Consent for extension to existing annexe, as approved in 14/1266/P/FP
Annexe Wheelgate House Market Square
Ms Elizabeth Goody | | |
| 83. | 21/03803/HHD | Witney Central | APP |
| | Addition of a parapet wall to single storey rear extension. Alteration to approved drawings under reference 18/03026/HHD.
29 Tower Hill Witney Oxfordshire
Mr And Mrs Smith | | |
| 84. | 21/03812/HHD | Carterton South | APP |
| | Single and two storey rear extension and first floor extension over garage
29 Kingham Drive Carterton Oxfordshire
Mr And Mrs Adam Lee | | |
| 85. | 21/03815/HHD
Affecting a Conservation Area | Alvescot and Filkins | APP |
| | Erection of a garden wall
Mitchells Cottage Lower End Alvescot
Mr G Smith | | |
| 86. | 21/03816/HHD | Carterton North West | APP |
| | Erection of a single storey rear extension
11 Swinbrook Road Carterton Oxfordshire
Ms Aimee Jervis | | |
| 87. | 21/03819/HHD | Witney East | APP |
| | Erection of single storey rear and side extensions (part retrospective)
32 Judds Close Witney Oxfordshire
Mr Craig Foster | | |
| 88. | 21/03846/HHD | Alvescot and Filkins | APP |
| | Conversion of existing detached outbuilding to create an annex ancillary to the main dwelling house
Freeland Cottage Westwell Burford
Mr George Bonas | | |

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| 89. | 21/03847/CLP | Standlake, Aston and Stanton
Harcourt | APP |
| | <p>Certificate of Lawfulness (Erection of a concrete plant)
 Hardwick Quarry Downs Road Standlake
 Cemex UK Operations Ltd</p> | | |
| 90. | 21/03842/HHD | Alvescot and Filkins | APP |
| | <p>Extension and alterations to the rear gable structures. These works include the removal of the existing north-east gable extension for replacement, extension of the existing south-west gable extensions, new porch extension to side elevation, upgrade of fenestration on first and second floor, and re-landscaping of the gardens surrounding the proposals
 Fieldside House Broadwell Lechlade
 Mr and Mrs S Pertwee</p> | | |
| 91. | 21/03843/LBC | Alvescot and Filkins | APP |
| | <p>Extension and alterations to the rear gable structures. These works include the removal of the existing north-east gable extension for replacement, extension of the existing south-west gable extensions, new porch extension to side elevation, upgrade of fenestration on first and second floor, and re-landscaping of the gardens surrounding the proposals
 Fieldside House Broadwell Lechlade
 Mr and Mrs S Pertwee</p> | | |
| 92. | 21/03845/HHD | Eynsham and Cassington | APP |
| | <p>Proposed basement extension, replace existing timber framed windows and doors with new double glazed metal framed windows and doors; change one of the south facing ground floor windows to a door set
 The Granary Jericho Farm Worton
 Mr & Mrs Ivanovic</p> | | |
| 93. | 21/03848/HHD | Bampton and Clanfield | APP |
| | <p>Construction of a white UPVC Lean to design conservatory to the rear of the property with aluminium bi fold doors (retrospective)
 4 Giles Place Bampton Oxfordshire
 Mrs Karagkouni</p> | | |
| 94. | 21/03849/PN56 | Eynsham and Cassington | P4REF |
| | <p>Conversion of an agricultural barn to a dwelling house.
 Fir Tree Farm Barnard Gate Witney
 Mr And Mrs Kirk</p> | | |

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| 95. | 21/03851/FUL | Witney West | APP |
| <p>Sub division of existing dwelling to create an additional dwelling together with associated works including alterations to existing access and parking facilities.</p> <p>153 Thorney Leys Witney Oxfordshire</p> <p>Mr Keith Strong</p> | | | |
| 96. | 21/03853/HHD | Hailey, Minster Lovell and Leafield | APP |
| <p>Affecting a Conservation Area</p> <p>Alterations to include erection of single storey rear extension, replacement of skylights with dormer windows and upgrading existing fenestration.</p> <p>Stag & Hounds High Street Ramsden</p> <p>Mr And Mrs Forsyth</p> | | | |
| 97. | 21/03886/HHD | Alvescot and Filkins | APP |
| <p>Affecting a Conservation Area</p> <p>Erection of two storey extension.</p> <p>The Paddocks Cross Tree Lane Filkins</p> <p>Mr And Mrs Colin Barry-Smith</p> | | | |
| 98. | 21/03858/LBC | Eynsham and Cassington | APP |
| <p>Affecting a Conservation Area</p> <p>Refurbishment works and alterations to existing fireplace opening and chimney breast to kitchen, including repositioning of beam upwards to improve cooking facilities.</p> <p>Cobden 45 Queen Street Eynsham</p> <p>Ms Celia Davies</p> | | | |
| 99. | 21/03869/HHD | Eynsham and Cassington | APP |
| <p>Parapet wall to rear extension, oak facing lintols, increase size of lantern light, increase length of rear extension with angled corner and WC window repositioned. Revised plans of 20/03241/HHD</p> <p>White Cottage Station Road South Leigh</p> <p>Mr Richard Martin</p> | | | |
| 100. | 21/03879/CLP | Alvescot and Filkins | APP |
| <p>Affecting a Conservation Area</p> <p>Certificate of lawfulness (loft conversion to create additional living space and changes to internal layout).</p> <p>Cooks Farm Barn Lechlade Road Langford</p> <p>Mr And Mrs Bennett</p> | | | |

101.	21/03880/HHD	Witney East	APP
	Single storey rear extension 81 Newland Mill Witney Oxfordshire Mr Nicolas Rafferty		
102.	21/03883/HHD	Standlake, Aston and Stanton Harcourt	APP
	Demolition of side extension, single storey rear extension, internal changes 19 Manor Crescent Standlake Witney Mr D Bleach		
103.	21/03899/HHD	Standlake, Aston and Stanton Harcourt	APP
	Affecting a Conservation Area Single storey rear extension and replacement of garage door infill Chartwell Church Road Northmoor Mr & Mrs P Brain		
104.	21/03901/HHD	Witney North	APP
	Single store rear extension 5 Schofield Avenue Witney Oxfordshire Mr R Gore		
105.	21/03924/HHD	North Leigh	APP
	Erection of a single storey front extension Ingleside East End North Leigh Mr And Mrs Kevin Swann		
106.	21/03931/FUL	Witney North	WDN
	Erection of a detached single storey dwelling with associated parking 118C Quarry Road Witney Oxfordshire Mr Angus Lonsdale		
107.	21/03963/CND	Carterton North West	APP
	Discharge of conditions 4 (schedule of materials) of planning permission 20/02422/FUL Land East Of Swinbrook Road Carterton Mr Keir Price		

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| 108. | 21/03965/FUL | Witney South | REF |
| <p>Erection of a detached single storey dwelling with the formation of a new access and associated works
 43 Ducklington Lane Witney Oxfordshire
 Mr Raymond Tollady</p> | | | |
| 109. | 21/03976/NMA | Alvescot and Filkins | APP |
| <p>Erection of detached dwelling and Artist's studio together with associated works and landscaping (non-material amendment to allow re-siting of artist's studio five metres to the south east of the approved location).
 Cuckoo Pen Farm Westwell Burford
 Mr K Tyson</p> | | | |
| 110. | 21/03988/HHD | Witney East | APP |
| <p>Affecting a Conservation Area</p> <p>Demolition of existing and construction of replacement single storey rear extension.
 59 Woodgreen Witney Oxfordshire
 Mrs Carys Davies</p> | | | |
| 111. | 21/03982/NMA | North Leigh | WDN |
| <p>Construction of replacement 4 bedroom dwelling (non-material amendment to 20/03541/FUL to allow changes to fenestration and installation of flue).
 Lyndhill East End North Leigh
 Mr N Wheeler</p> | | | |
| 112. | 21/04022/FUL | Alvescot and Filkins | APP |
| <p>Erection of agricultural machinery store with associated works.
 Home _ Lower Farms Little Faringdon Lechlade
 Feldon Herbs Ltd</p> | | | |
| 113. | 21/04025/FUL | Alvescot and Filkins | APP |
| <p>Erection of wooden cabin as welfare building for farm workers.
 Home _ Lower Farms Little Faringdon Lechlade
 Feldon Herbs Ltd</p> | | | |
| 114. | 21/04050/HHD | Eynsham and Cassington | APP |
| <p>Replacement Ground Floor Rear Extension and Formation of new First Floor Extension
 2 Bell Lane Cassington Witney
 Ms C Waters</p> | | | |

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| 115. 21/04051/HHD
Affecting a Conservation Area

First Floor Rear Extension
3 Bell Lane Cassington Witney
Mr And Mrs D Wright | Eynsham and Cassington | APP |
| 116. 21/04125/HHD
Affecting a Conservation Area

General refurbishment and internal alterations including the addition of new windows, rooflights and doors. Access roof dormer on top of the tower.
Tower Barn 2 Home Farm Barns Main Road
C/O Agent | Alvescot and Filkins | APP |
| 117. 21/04064/HHD

Single storey infil front extension
Oak Cottage South Leigh Road High Cogges
Mr and Mrs Matt Glithero | Eynsham and Cassington | APP |
| 118. 21/04082/NMA

Reserved Matters application for the construction of 160 dwellings and provision of public open space with associated infrastructure and earthworks, pursuant to outline planning permission 16/03415/OUT (non-material amendment to allow changes to the stone used on plots 99 and 100).
Land East Of Mount Owen Road Bampton
Mrs Lorna Juarez | Bampton and Clanfield | APP |
| 119. 21/04091/HHD

Erection of a single storey extension along with the partial conversion of garage to living space. Conversion of attic space with the construction of a rear dormer.
11 Painswick Close Witney Oxfordshire
Miss Chloe Bunce | Witney West | APP |
| 120. 21/04120/HHD

Convert existing garage into room, extend entrance hall
2 Chedworth Drive Witney Oxfordshire
Mr Ian Pritchard | Witney West | APP |

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| 121. | 22/00017/PN56 | Brize Norton and Shilton | P4REF |
| | <p>Conversion of existing barn to dwelling.
 Sturt Farm Courtyard Oxford Road Burford
 Sturt Farm Burford Ltd</p> | | |
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| 122. | 21/04134/NMA | Brize Norton and Shilton | APP |
| | <p>Erection of a two storey sixty six bedroom care home for the elderly with associated works. (Amended Plans). (Non-material amendment to 21/02664/RES to show on the site plan the position of the battery store).
 Land At Grid Reference 428950 207707 Monahan Way Carterton
 Mr James Flynn</p> | | |
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| 123. | 22/00006/PDET28 | Bampton and Clanfield | P5WDN |
| | <p>Erection of polytunnel for the purpose of growing market garden vegetables as a business.
 Land South Of Sharney Bridge Weald Bampton
 Mr Jonathan Skuse</p> | | |
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| 124. | 22/00035/CND | Hailey, Minster Lovell and Leafield | APP |
| | <p>Affecting a Conservation Area</p> <p>Discharge of conditions 3 (external wall sample panel) and 4 (roof sample) of planning permission 21/00866/FUL
 Cotswold Edge Lower End Ramsden
 Guy & Kathryn Wengraf</p> | | |
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| 125. | 22/00109/CND | Eynsham and Cassington | APP |
| | <p>Affecting a Conservation Area</p> <p>Discharge of conditions 4 (details of bat roosting and nesting opportunities for birds), 5 (archaeological watching brief) of planning permission 21/03079/HHD (amended)
 Abbey Farm Abbey Street Eynsham
 Mr And Mrs W Kendal</p> | | |
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| 126. | 22/00130/PDET28 | North Leigh | P2NRQ |
| | <p>Erection of a circular fertiliser storage tank
 Land (E) 438768 (N) 214291 Wilcote Road North Leigh
 Mr D Cecil</p> | | |

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| 127. | 22/00131/PDET28 | Ducklington | P2NRQ |
| | Erection of an agricultural fertiliser storage tank.
Land South West Of Home Farm Cokethorpe Park Ducklington
R Feilden | | |
| 128. | 22/00222/PDET28 | Eynsham and Cassington | P2NRQ |
| | Erection of a circular agricultural storage tank
Charlie Harris Field Church End South Leigh
EPF (CF) Partnership | | |

Appeal Decisions

Inquiry Held on 24 & 25 August 2021

Site visit made on 24 August 2021

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 November 2021

Appeal A: APP/D3125/C/20/3256208

Land at Mount Pleasant Farm, Chapel Lane, Northmoor, Oxfordshire

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Matthew Prickett against an enforcement notice issued by West Oxfordshire District Council.
- The enforcement notice, numbered 2020/5, was issued on 18 June 2020.
- The breach of planning control as alleged in the notice is set out in the Annex attached to this Decision.
- The requirements of the notice are set out in the Annex.
- The period for compliance with the requirements is set out in the Annex.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended (the Act). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal succeeds in part on grounds (f) and (g) and the enforcement notice is upheld with variations in the terms set out below in the Formal Decision. Planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Appeal B: APP/D3125/C/20/3256211

Land at Mount Pleasant Farm, Chapel Lane, Northmoor, Oxfordshire

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Matthew Prickett against an enforcement notice issued by West Oxfordshire District Council.
- The enforcement notice, numbered 2020/6, was issued on 18 June 2020.
- The breach of planning control as alleged in the notice is set out in the Annex attached to this Decision.
- The requirements of the notice are set out in the Annex.
- The period for compliance with the requirements is set out in the Annex.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (d) and (g) of the Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a variation in the terms set out below in the Formal Decision. Planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Preliminary matters

1. The siting of a mobile home for residential purposes was the subject of a previous appeal¹ and is not part of the breach of planning control alleged in either notice. However, storage of a mobile home that is not used for purposes ancillary to the agricultural use of the land or its use for the keeping of horses may form part of the breach of planning control alleged in notice 2020/5, the subject of Appeal A.
2. In the decision on Appeal A, 'the mixed use' means the mixed use of the land comprising the breach of planning control alleged in notice 2020/5. 'The original mixed use' means the mixed use of the land for agriculture and the keeping of horses and 'the former mixed use' means the mixed use of the land for agriculture, horse keeping and unrelated storage.
3. Ms Boyes-Weston, Mr Westby, Mr & Mrs Norris, Dr & Mrs Gaynor Sharp-Dent and Mr & Mrs Hare were granted Rule 6 status and were represented in the Inquiry. I shall refer to them as 'the Rule 6 party'.
4. The Inquiry sat for two days. All the evidence was affirmed at the Inquiry.

Appeal A – the appeal on ground (d)

5. The land excludes a workshop building and the former site of a residential caravan identified on the plan accompanying notice 2020/5. Other than these areas, the appeal site is a single planning unit with a variety of activities, which are neither incidental or ancillary to one another nor confined within separate and physically distinct parts.

The 10-year period

6. The passage of time required for the material change of use alleged in notice 2020/5 to become immune is normally a period of not less than 10 years ending on or before the date the notice was issued. However, in this case the Council and the Rule 6 party contend that the storage element of the mixed use would need to have been instituted on or before 18 October 2008. That date is 10 years before a previous notice² alleging a mixed use including a storage use was issued.
7. Section 171B(4)(b) of the Act provides that nothing shall prevent a local planning authority taking further enforcement action in respect of any breach of planning control if, during the preceding 4 years, it has taken or purported to take enforcement action in respect of that breach. This is commonly known as the 'second bite' provision and it should be interpreted to apply where the intention of the further enforcement action is broadly the same as that of the previous enforcement action, whether it was taken or purported to be taken.
8. The Council and the Rule 6 party say the currently alleged breach of planning control is broadly the same as that in the 2018 notice. Although that notice was quashed on appeal, the Council had purported to take enforcement action against the unauthorised storage of items not ancillary to the agricultural use of the land by issuing it. While the lists of items in the 2 notices differ, both incorporate the words 'including but not limited to'. However, the scope of the

¹ APP/D3125/C/18/3216210, dismissed 20 January 2020

² 2018/6 issued 18 October 2018 and quashed 20 January 2020 (the 2018 notice)

unauthorised storage now alleged is different, referring also to items that are not ancillary to the use of the land for the keeping of horses.

9. A more significant difference between the breaches of planning control described in the 2018 notice and the current one is the addition of the use as a motorcycling/BMX activity track. However, the Council considers it would be wrong for the storage use to evade the second bite provision on account of further unauthorised development.
10. While the Council's argument is logical, it implies an intention that is not apparent from the wording of section 171B(4)(b). The essential question is whether the 2 notices are concerned with the same unauthorised development. If the 2018 notice had been concerned with the same breach of planning control as notice 2020/5, but had described it differently, or had misdescribed the site, that would not necessarily prevent the second bite provision having effect. In this case, the difference in the description of the previous use of the land, specifically the additional reference to horse keeping in notice 2020/5, does not change what the Council wishes to cease.
11. However, section 171B(4)(b) states that the previous enforcement action must have been in respect of 'that breach', meaning the breach of planning control alleged in notice 2020/5. As a matter of fact, the mixed use constituting the breach of planning control now alleged is a different mixed use from that alleged in the 2018 notice. The addition of the motorcycling/BMX activity track use to the former mixed use represents a significant change in the character of the use and therefore in what the notices are concerned with. The degree of change goes beyond any technical defect in the 2018 notice and the intention of notice 2020/5 is therefore not broadly the same.
12. For these reasons, section 171B(4)(b) cannot apply to the mixed use comprising the alleged breach of planning control in notice 2020/5. It is therefore necessary, on the balance of probability, for the appellant to demonstrate the mixed use began on or before 18 June 2010 (the Relevant Date), 10 years before notice 2020/5 was issued, and continued for a 10-year period without significant interruption. If so, the mixed use will be immune from enforcement action.

The storage use

13. The appellant moved his business to an agricultural building at Mount Pleasant Farm (MPF) in 2001 and obtained a personal planning permission for continued use of the building as a workshop in 2004³. A condition restricted storage, industrial or other business use to the existing buildings, except for the associated parking, manoeuvring, loading, and unloading of vehicles. Apart from those permitted associated activities, the surrounding land was used for the original mixed use of agriculture and keeping of horses at that time.
14. An aerial image from 2006 shows 2 features that the appellant identified as shipping containers undergoing restoration. A shipping container and a static caravan are shown adjacent to the northern boundary in a photograph dated 24 January 2009. An aerial image from June 2009 shows a significant increase in storage, including 3 boats and 3 touring caravans. The shipping containers are not where they were in 2006 and the appellant began letting storage space

³ 04/0002/P/FP, granted 16 March 2004 (the 2004 permission)

in them around this time. No evidence that any of the foregoing was ancillary to the original mixed use of the site was presented.

15. Subsequent aerial images, particularly from September 2015, May 2016, April 2017, May 2018, and May 2020, show a greater number of features spreading towards the western boundary. Nearby residents refer to a growth in storage over that period. Several of these features can be identified as vehicles, touring caravans, boats, and shipping containers. No evidence that they were ancillary to the original mixed use of the site was presented.

The motorcycling/BMX activity track use

16. Some of the aerial images include features alongside the western and southern boundaries of the site that the appellant identified as earth mounds he had formed to facilitate the motorcycling/BMX activity track use. However, while their formation may indicate an intention to use the land in that way, it cannot, of itself, demonstrate whether or when the use was instituted. Neither, if the use was instituted, can it demonstrate that it continued as a permanent use of the land for a 10-year period without significant interruption.
17. The appellant began riding motocross bikes at MPF in his youth, before he owned the site. He joined a motocross club and rode competitively between 1989 and 1991, but that does not confirm any activity at MPF. The appellant and another witness confirm that he formed a small track around that time but there is scant evidence of how often, and over what period, it was used. While the appellant states that he practiced motocross on the land in his teens, the frequency of this is not stated. His evidence does not indicate that anyone else rode there until a friend did in 2013. A witness who visited the site 2 to 5 times each year from before 2002 makes no mention of this use being carried out. It has thus not been demonstrated that such activity was more than occasional or temporary, or that it altered the character of the use of the land.
18. A meeting with the Council in September 2016 touched on the matter of permitted development rights for the temporary use of the land for motocross, described in terms of numbers of events. Class B, temporary use of land, of Part 4 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order) allows motorcycle racing, including speed trials, and practising for those activities, for up to 14 days in any calendar year. However, it is not recorded on how many days the land was being used as a motorcycling/BMX activity track then.
19. A witness for the Rule 6 party confirmed there were events, involving multiple riders, on 3 or 4 weekend afternoons during summer 2017 but made no mention of any such events prior to that or again until May 2020. A log of activity submitted by the Rule 6 party records that a significant change occurred then, with motorbikes being ridden for extended periods on several days each week, totalling 18 days that month. Witnesses also refer to quad bikes being brought onto the site at this time.
20. The foregoing evidence only identifies a level of motorcycling/BMX activity above the temporary use permitted by the Order during May and early June 2020. Accordingly, it has not been demonstrated that a permanent change in the character of the use, through the addition of use as a motorcycling/BMX activity track occurred before May 2020. The change that occurred then, the

addition of a use requiring planning permission, opened a new chapter in the planning history of the site.

Conclusion on ground (d)

21. There is evidence of some storage prior to the Relevant Date. However, a significant component of the mixed use, the use of land as a motorcycling/BMX track, only became apparent as development requiring planning permission in May 2020. A change in the character of the use therefore occurred that month, instituting the mixed use alleged in notice 2020/5.
22. Accordingly, it has not been demonstrated that the mixed use was instituted on or before the Relevant Date. Therefore, it is not immune from enforcement action and the appeal on ground (d) must fail.

Appeal A – the appeal on ground (a)

23. The main issues in considering the deemed planning application (DPA) in this appeal are:

- Whether the mixed use of the land for agriculture, the keeping of horses, the storage of items that are not ancillary to the use of the land for agriculture or the keeping of horses, and the use of land as a motorcycling/BMX activity track, is a use appropriate to the location.
- The effect on the landscape and the character and appearance of the area.
- The effect on the living conditions of nearby people, especially in terms of noise.
- The effect on ecology and biodiversity.
- Flood risk.
- The effect on the rural economy

Reasons

Whether the mixed use is appropriate to the location

24. Although the planning permission for the workshop use includes a condition prohibiting external storage, some items stored on the land appear to relate to the appellant's use of the workshop building for vehicle repairs. While this storage may support the effectiveness of an existing business, evidence that such support could not be provided by other means was not presented.
25. Other storage, including the commercial letting of space within shipping containers, would be more sustainably provided in locations with better accessibility. No justification has been provided for this storage at the site in land use terms. While the opportunities to locate a motorcycle/BMX activity track within or adjacent to a settlement may be limited, there is no evidence that more sustainable locations were investigated.
26. It has therefore not been demonstrated that the mixed use is appropriate for, or requires, a rural location. Accordingly, and in view of the limited accessibility of the site, it is contrary to policy OS2 of the West Oxfordshire Local Plan 2031 (the WOLP), which is the Development Plan for the area.

Landscape and character and appearance

27. The site lies within an area of flat and low-lying cultivated farmland with a good structure of hedgerows and trees. Because of the flat topography of the surrounding river corridor, there are no nearby vantage points with wide unobstructed views into the site. However, the interior of the site, and the storage within it, can be seen from parts of adjacent public rights of way, even though the appellant has removed many of the items listed in notice 2020/5.
28. While there may be a business case for some storage in connection with the appellant's use of the workshop, it has not been defined and cannot be separated from the storage use that notice 2020/5 is concerned with. By reason of its nature and scale, including large structures and objects, the storage element of the mixed use does not conserve or enhance the quality, character, and distinctiveness of the countryside.
29. The visual effect of the motorcycle/BMX activity track on the landscape and on the character and appearance of the area is considered in Appeal B below. However, the noise and other activity associated with a motorcycle circuit are at odds with the otherwise tranquil character of the rural location. While the appellant would accept a planning condition to prevent the use of non-electric motorbikes, it has not been demonstrated that the use would recognise the intrinsic character and beauty of the countryside as a result.
30. The appellant would be prepared to carry out landscape planting if the DPA were permitted and a condition to that effect has been suggested. However, it has not been demonstrated that this would mitigate the identified harm to the tranquil character of the area. The mixed use is therefore contrary to policy EH2 of the WOLP and part 15 of the National Planning Policy Framework (the Framework).

Living conditions

31. Even if there were no opportunities to locate a motorcycle/BMX track within or adjacent to a settlement, that would not mean that a rural location should be pursued if it would have an unacceptable effect on neighbouring occupiers. Video evidence of noise and dust arising from the use of the track by motorcycles was presented to the Inquiry. Noise and dust on that scale are incompatible with the adjoining residential uses, are harmful to the amenity of existing occupants, and cause them unacceptable nuisance.
32. It is suggested this could be addressed by a planning condition to prevent the use of non-electric motorbikes and requiring the track to be sprayed as part of wider measures designed to mitigate noise and dust. I have no doubt that the suggestion was made in good faith and that some improvement over the situation documented in the video could be achieved. However, no assessment of the likely effectiveness of these measures, including how they would be monitored and enforced, has been provided.
33. It has therefore not been demonstrated that harm to living conditions could be mitigated by the imposition of planning conditions. The mixed use is thus contrary to policies OS2 and EH8 of the WOLP and part 12 of the Framework.

Ecology and biodiversity

34. The site is within the Lower Windrush Valley Project Area and special attention and protection should be given to the biodiversity of this area. However, no assessment of the ecological value of the site prior to the change of use, or evidence of any harm to ecology and biodiversity arising from the mixed use has been presented. Nevertheless, it has been suggested that a net gain for biodiversity could be secured by the imposition of an appropriate planning condition if the DPA were to be granted. Accordingly, I do not find conflict with policy EH2 of the WOLP in this respect.

Flood risk

35. Much of the site is within Flood Zone 1, the area with the lowest risk of flooding. However, a significant proportion, along the northern and western fringes and including most of the area currently used for storage, is within Flood Zone 2. This part of the site is therefore at a higher risk of flooding. The approach via Chapel Lane passes through Flood Zones 2 and 3, the latter area being at highest risk.
36. The appellant's flood risk assessment concerns residential use of a mobile home, which is not the subject of notice 2020/5. No assessment relating to the mixed use has been provided. Despite the absence of an assessment specific to the DPA, it is reasonable to conclude that storage of large objects within Flood Zone 2 is likely to alter flood water flows. Furthermore, the motorcycle/BMX activity track use may draw visitors to the site, involving access through Flood Zones 2 and 3. However, the effect of these factors cannot be gauged without an assessment specific to the DPA.
37. Although it has been suggested that flood risk mitigation measures could be secured by planning condition, it has not been demonstrated that flood risk can be satisfactorily managed for the mixed use to be carried out at the site. The DPA is therefore contrary to policy EH7 of the WOLP and Part 14 of the Framework.

The rural economy

38. The production of hay and duck eggs contributes to the rural economy, but these are agricultural activities that notice 2020/5 does not seek to end or restrict. The appellant's diversification of his business activities on the site has not only been to his benefit but has also involved the provision of support to local farm enterprises. However, it has not occurred on a site in or adjacent to a settlement and has not amounted to farm or country estate diversification. Neither has it been demonstrated to be necessary for agricultural production.
39. Accordingly, the mixed use does not accord with, and therefore cannot draw support from, policy E2 of the WOLP.

Conclusion on ground (a)

40. For the reasons given, the mixed use is unacceptable in terms of location and flood risk and through its effect on landscape, the character and appearance of the area, and living conditions. This is contrary to the Development Plan as a whole and Parts 12, 14 and 15 of the Framework. The DPA cannot draw support from policy E2 of the WOLP in terms of its contribution to the rural economy. While I have not found conflict with policy EH2 of the WOLP in

respect of ecology and biodiversity, that does not outweigh the harm already identified. Therefore, the appeal on ground (a) should not succeed.

Appeal A – the appeal on ground (f)

41. Although evidence was not presented in the Inquiry, the appellant had given notice that he considered the requirement to remove any storage associated with the permitted use of the workshop to be excessive. While a notice should not seek the removal of something that has the benefit of planning permission, I have already noted the inclusion of a condition preventing storage outside of the building in the 2004 permission. Accordingly, the requirement does not conflict with that permission and is not excessive.
42. The appellant had also given notice that a requirement to restore the land to agricultural purposes would be excessive in view of the long-standing use for horse keeping and the permitted use of the workshop. However, notice 2020/5 does not apply to the workshop and does not seek restoration to agricultural purposes. Instead, it seeks restoration to a similar condition as the immediately surrounding agricultural land. While the omission of a reference to the horse keeping use may constitute a misdescription, it can have no bearing on the condition of the land, which is the focus of requirements (4) and (5). Nevertheless, the description of the surrounding land can be clarified by variation without causing injustice.
43. Requirement (2) seeks the removal of items that are not ancillary to agricultural and horsicultural use of the land, but the uses are defined as agriculture and the keeping of horses in the alleged breach of planning control. The word 'horsicultural' may therefore give rise to uncertainty and it would cause no injustice to vary notice 2020/5 to refer to horse keeping instead.
44. The appeal on ground (f) succeeds to this extent.

Appeal A – the appeal on ground (g)

45. The grounds of appeal had asserted that the 4-month period for seeding the land with grass or an agricultural crop is insufficient and that notice 2020/5 should instead require this to be carried out by the end of the next growing season. However, in the Inquiry the appellant accepted that 4 months is a reasonable period.
46. Some items stored in the shipping containers are integral to the appellant's business use of the workshop, including the storage of vehicles and vehicle parts and components awaiting work. He considers he would need more than 3 months to relocate this storage without risking closure of his business and suggests an alternative minimum period of 18 months.
47. An aerial image from December 2004 indicates the appellant was initially able to carry out his business without external storage. He identified 2 shipping containers in an image from December 2006, although they were being restored at that time and there is no evidence that they were also being used for storage. While some of the more extensive storage that existed when notice 2020/5 was issued may have been in connection with the use of the workshop, the proportion has not been quantified.
48. In these circumstances, any extension of the period for compliance would apply to all storage, regardless of any business case. The suggested period of at least

18 months would be exceptionally long, tantamount to a temporary planning permission. Allowing uncontrolled storage on the present scale to remain that long would be inconsistent with my findings in the appeal on ground (a).

49. If the storage the appellant considers essential to his business use of the workshop were specified, it could be made the subject of an application to vary the condition of the 2004 permission. However, that is not to suggest that any such application could or should succeed. While 3 months is a reasonable period for an application to be progressed, there would be limited time to make alternative arrangements following a refusal. A 6-month period for compliance with requirements (2) and (3) would therefore provide a greater safeguard to the appellant's business and would not prolong the wider storage identified in the breach of planning control unnecessarily.

50. The appeal on ground (g) succeeds to this extent.

Appeal B – the appeal on ground (d)

51. To succeed on this ground, it is necessary for the appellant to demonstrate, on the balance of probability, that the engineering work to form the track was substantially completed on or before 18 June 2016, 4 years prior to the service of notice 2020/6.
52. No earth mounds that might form part of the engineering work the subject of notice 2020/6 have been identified in any aerial image pre-dating May 2016. However, the appellant states there was a small track around the perimeter of the site before this, which he altered in 2013. Photographs taken that year show bare earth mounds on the perimeter of the land and although the month in which they were taken is not stated, they show trees in leaf, suggesting the mounds were formed in spring or summer 2013. While these features cannot be seen in the aerial images from March 2013 and September 2015, neither is sharply focused.
53. One of the appellant's witnesses recalled seeing a mound, or berm, just inside the entrance gate to MPF but that is outside the area of the works identified in notice 2020/6 and is therefore not subject to its requirements.
54. Significant operations were carried out during May and early June 2020, recorded in the Rule 6 party's log of activity and in subsequent photographs taken by the Council. The last day on which engineering work, described as digging, is recorded in the log is 1 June 2020. The appellant confirmed that this work was carried out with the aid of 2 other people and using an excavator to re-grade the land.
55. For these reasons, the engineering work constituting the breach of planning control was not substantially completed on or before 18 May 2016 and is therefore not immune from enforcement action. The appeal on ground (d) fails accordingly.

Appeal B – the appeal on ground (c)

56. The appellant contends that the engineering work alleged to amount to the construction of an outdoor dirt track, including the formation of earth mounds, was not new development but was repair and maintenance of an existing track. The earlier track he described was around the perimeter of the land and thus very different in form and siting from the track the subject of notice 2020/6.

57. There is some overlap between the 2 near the western perimeter but it has not been demonstrated that a track had previously existed where the great majority of the engineering work was undertaken in May and June 2020. It is probable that some material from the previous track was incorporated in the new one. However, as a matter of fact and degree, that would have been part of the formation of the new track, not the repair or maintenance of an earlier one.

58. The engineering work of constructing the outdoor dirt track, including the formation of earth mounds, is development requiring express planning permission by reason of section 55(1) of the Act. There is no evidence that such permission has been granted and the work is therefore in breach of planning control.

59. For these reasons, the appeal on ground (c) must fail.

Appeal B – the appeal on ground (a)

60. The main issues in considering the DPA in this appeal are:

- The effect of the track, including the formation of earth mounds, on the landscape and the character and appearance of the area.
- The effect on ecology and biodiversity.
- The effect on flood risk.

Reasons

Landscape and character and appearance

61. Like the storage use considered in Appeal A, the track can be seen in some views from adjacent public rights of way. The topography of the track is markedly different from the surrounding flat landform of low-lying cultivated farmland. It therefore does not conserve or enhance the quality, character, and distinctiveness of the countryside.

62. The appellant would accept a condition requiring landscape planting if the DPA were to be allowed but no indication of what planting might be achieved, and how it might screen the track has been provided. Accordingly, it has not been demonstrated that the identified harm could be suitably mitigated by the imposition of planning conditions and the track is therefore contrary to policy EH2 of the WOLP and part 15 of the Framework.

Ecology and biodiversity

63. Notwithstanding the site's location within the Lower Windrush Valley Project Area, there is no assessment of the ecological value of the site prior to the works being carried out. However, neither has evidence of any harm to ecology and biodiversity arising from them been presented. Accordingly, I do not find conflict with policy EH2 of the WOLP in this respect.

Flood risk

64. The track is partly within Flood Zone 2, where there is a medium risk of flooding. While the formation of mounds was accompanied by excavation, the change in the landform has the potential to alter the flow of water in a flooding

event. As with Appeal A, the only assessment of flood risk is in respect of a matter that is not alleged in notice 2020/6 and is therefore of limited value.

65. Without a flood risk assessment specific to the site and the DPA, it has not been demonstrated that flood risk can be satisfactorily managed with the track in place. The DPA is therefore contrary to policy EH7 of the WOLP and Part 14 of the Framework.

Conclusion on ground (a)

66. For the reasons given, the track is unacceptable in terms of its effect on landscape, the character and appearance of the area, and its potential effect on flood risk. This is contrary to policies EH2 and EH7 of the WOLP and Parts 14 and 15 of the Framework. While I have not found conflict with policy EH2 of the WOLP in respect of ecology and biodiversity, that does not outweigh the harm already identified. Therefore, the appeal on ground (a) should not succeed.

Appeal B – the appeal on ground (g)

67. As with Appeal A, it was originally asserted that the 4-month period for seeding the land with grass or an agricultural crop is insufficient and that notice 2020/6 should instead refer to the next growing season. However, in the Inquiry the appellant accepted that 4 months is a reasonable period and the appeal on ground (g) must fail.

Appeal A – Conclusion

68. For the reasons given above, I conclude that the appeals on grounds (d) and (a) should not succeed and the appeals on grounds (f) and (g) should succeed. I shall uphold enforcement notice 2020/5 with variations and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Act.

Appeal B – Conclusion

69. For the reasons given above, I conclude that the appeal should not succeed. However, and in keeping with my findings on ground (f) in Appeal A, a variation should be made in requirement (1) to acknowledge the use for keeping of horses. I am satisfied that no injustice would arise from this.
70. Subject to this variation I shall uphold enforcement notice 2020/6 and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Act.

Appeal A – Formal Decision

71. It is directed that enforcement notice 2020/5 is varied in section 5 by:
- The deletion of the words “horsicultural use” and the substitution of the words “horse keeping uses” in (2);
 - The insertion of the words “and horse keeping” after the word “agricultural” in (4); and
 - The insertion of the words “and horse keeping” after the word “agricultural” in (5).

- The deletion of the words “3 months” and the substitution of the words “6 months” in the sub-heading setting out the period for compliance with requirements (2) and (3).

72. Subject to these variations, the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Appeal B – Formal Decision

73. It is directed that enforcement notice 2020/6 is varied in section 5 by the insertion of the words “and horse keeping” after the word “agricultural” in (1).

74. Subject to this variation, the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Mark Harbottle

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Matthew Prickett and Jan Clements

They called
Matthew Prickett
Jan Clements
Malcolm Davis

FOR THE LOCAL PLANNING AUTHORITY:

Charles Merrett of Counsel

He called
Chris Wood PG Dip TP

Senior Planning Appeals Officer,
West Oxfordshire District Council

FOR THE RULE 6 PARTY:

Steven Sensecall BA (Hons) Dip TP MRTPI

Partner, Carter Jonas LLP

He called
Carole Boyes-Weston
Greg Sharp-Dent

Nicola Brock BA Hons Dip TP MRTPI

Partner, Carter Jonas LLP

Documents submitted at the Inquiry

- 1 Enlarged copies of aerial images
- 2 Alternative enforcement notice plan
- 3 The log of activity referred to in Carole Boyes-Weston's statement
- 4 Appeal decisions APP/Q3115/C/18/3201871 & 3201874 relating to land known as Ten Acre Farm, Beckley, Oxfordshire

Documents submitted following the Inquiry

- 1 The Council's comments on conditions
- 2 The Rule 6 party's comments on conditions
- 3 High Court transcript of R (oao Lambrou) v SSCLG [2013] EWHC 325 (Admin)

Annex to appeal decision ref APP/D3125/C/20/3256208

Section 3: THE BREACH OF PLANNING CONTROL ALLEGED

Without planning permission, a material change of use of the land (not including the building and area coloured blue and green respectively) from a mixed use of agriculture and the keeping of horses to a mixed use of (i) agriculture; (ii) keeping of horses; (iii) storage of non-agricultural items that are not ancillary either to the agricultural use of the land or to its use for the keeping of horses, including but not limited to the following items: non-agricultural vehicles (including cars, vans, lorries, fork lift trucks, construction plant, domestic lawn mowers, motor bikes (whether or not in working condition)), vehicle parts (including engines, seats, tyres, and body panels), caravans (including static and touring caravans), metal storage and other containers, building materials, scrap metal, gas bottles, tyres, domestic radiators, windows, furniture, boats, gliders, glider and other trailers, trampolines, toys, white goods, deckchairs, picnic tables, ladders, fence panels, plastic and other waste materials; and (iv) use as a motorcycling/BMX activity track.

Section 5: WHAT YOU ARE REQUIRED TO DO

Within 1 week of the date on which this notice comes into effect

- (1) Cease the use of the land as a motorcycling/BMX activity track.

Within 3 months of the date on which this notice comes into effect

- (2) Remove those items that are not ancillary to the agricultural and horsicultural use of the land, including non-agricultural vehicles (including cars, vans, lorries, fork lift trucks, construction plant, domestic lawn mowers, motor bikes (whether or not in working condition)), vehicle parts (including engines, seats, tyres, and body panels), caravans (including static and touring caravans), metal storage and other containers, building materials, scrap metal, gas bottles, tyres, domestic radiators, windows, furniture, boats, gliders, glider and other trailers, trampolines, toys, white goods, deckchairs, picnic tables, ladders, fence panels, plastic and other waste materials; and
- (3) Cease the use of the land for storage.

Within 4 months of the date on which this notice comes into effect

- (4) Reinstate the land on which the track was located to natural ground level and to a similar condition as the agricultural land immediately surrounding it by seeding it with grass or an agricultural crop; and
- (5) Reinstate the land used for storage to natural ground level and to a similar condition as the agricultural land immediately surrounding it by seeding it with grass or an agricultural crop; and
- (6) Remove from the land any excess soil and/or other materials that are not derived from the site and that have been used to create the motorcycling/BMX activity track.

Annex to appeal decision ref APP/D3125/C/20/3256211

Section 3: THE BREACH OF PLANNING CONTROL ALLEGED

Without planning permission, the carrying out of works to form an outdoor dirt track including the formation of earth mounds, on the part of the land coloured brown on the attached plan.

Section 5: WHAT YOU ARE REQUIRED TO DO

Within 4 months of the date on which this notice comes into effect

- (1) Reinstate the land on which the track was located to natural ground level and to a similar condition as the agricultural land immediately surrounding it by seeding it with grass or an agricultural crop; and
- (2) Remove from the land any excess soil and/or other materials that are not derived from the site and have been used to create the motorcycling/BMX activity track.

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Appeal Decisions

Inquiry Held on 24 & 25 August 2021

Site visit made on 24 August 2021

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 November 2021

Appeal A: APP/D3125/C/20/3256208

Land at Mount Pleasant Farm, Chapel Lane, Northmoor, Oxfordshire

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Matthew Prickett against an enforcement notice issued by West Oxfordshire District Council.
- The enforcement notice, numbered 2020/5, was issued on 18 June 2020.
- The breach of planning control as alleged in the notice is set out in the Annex attached to this Decision.
- The requirements of the notice are set out in the Annex.
- The period for compliance with the requirements is set out in the Annex.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (d), (f) and (g) of the Town and Country Planning Act 1990 as amended (the Act). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal succeeds in part on grounds (f) and (g) and the enforcement notice is upheld with variations in the terms set out below in the Formal Decision. Planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Appeal B: APP/D3125/C/20/3256211

Land at Mount Pleasant Farm, Chapel Lane, Northmoor, Oxfordshire

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Matthew Prickett against an enforcement notice issued by West Oxfordshire District Council.
- The enforcement notice, numbered 2020/6, was issued on 18 June 2020.
- The breach of planning control as alleged in the notice is set out in the Annex attached to this Decision.
- The requirements of the notice are set out in the Annex.
- The period for compliance with the requirements is set out in the Annex.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (d) and (g) of the Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a variation in the terms set out below in the Formal Decision. Planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Preliminary matters

1. The siting of a mobile home for residential purposes was the subject of a previous appeal¹ and is not part of the breach of planning control alleged in either notice. However, storage of a mobile home that is not used for purposes ancillary to the agricultural use of the land or its use for the keeping of horses may form part of the breach of planning control alleged in notice 2020/5, the subject of Appeal A.
2. In the decision on Appeal A, 'the mixed use' means the mixed use of the land comprising the breach of planning control alleged in notice 2020/5. 'The original mixed use' means the mixed use of the land for agriculture and the keeping of horses and 'the former mixed use' means the mixed use of the land for agriculture, horse keeping and unrelated storage.
3. Ms Boyes-Weston, Mr Westby, Mr & Mrs Norris, Dr & Mrs Gaynor Sharp-Dent and Mr & Mrs Hare were granted Rule 6 status and were represented in the Inquiry. I shall refer to them as 'the Rule 6 party'.
4. The Inquiry sat for two days. All the evidence was affirmed at the Inquiry.

Appeal A – the appeal on ground (d)

5. The land excludes a workshop building and the former site of a residential caravan identified on the plan accompanying notice 2020/5. Other than these areas, the appeal site is a single planning unit with a variety of activities, which are neither incidental or ancillary to one another nor confined within separate and physically distinct parts.

The 10-year period

6. The passage of time required for the material change of use alleged in notice 2020/5 to become immune is normally a period of not less than 10 years ending on or before the date the notice was issued. However, in this case the Council and the Rule 6 party contend that the storage element of the mixed use would need to have been instituted on or before 18 October 2008. That date is 10 years before a previous notice² alleging a mixed use including a storage use was issued.
7. Section 171B(4)(b) of the Act provides that nothing shall prevent a local planning authority taking further enforcement action in respect of any breach of planning control if, during the preceding 4 years, it has taken or purported to take enforcement action in respect of that breach. This is commonly known as the 'second bite' provision and it should be interpreted to apply where the intention of the further enforcement action is broadly the same as that of the previous enforcement action, whether it was taken or purported to be taken.
8. The Council and the Rule 6 party say the currently alleged breach of planning control is broadly the same as that in the 2018 notice. Although that notice was quashed on appeal, the Council had purported to take enforcement action against the unauthorised storage of items not ancillary to the agricultural use of the land by issuing it. While the lists of items in the 2 notices differ, both incorporate the words 'including but not limited to'. However, the scope of the

¹ APP/D3125/C/18/3216210, dismissed 20 January 2020

² 2018/6 issued 18 October 2018 and quashed 20 January 2020 (the 2018 notice)

unauthorised storage now alleged is different, referring also to items that are not ancillary to the use of the land for the keeping of horses.

9. A more significant difference between the breaches of planning control described in the 2018 notice and the current one is the addition of the use as a motorcycling/BMX activity track. However, the Council considers it would be wrong for the storage use to evade the second bite provision on account of further unauthorised development.
10. While the Council's argument is logical, it implies an intention that is not apparent from the wording of section 171B(4)(b). The essential question is whether the 2 notices are concerned with the same unauthorised development. If the 2018 notice had been concerned with the same breach of planning control as notice 2020/5, but had described it differently, or had misdescribed the site, that would not necessarily prevent the second bite provision having effect. In this case, the difference in the description of the previous use of the land, specifically the additional reference to horse keeping in notice 2020/5, does not change what the Council wishes to cease.
11. However, section 171B(4)(b) states that the previous enforcement action must have been in respect of 'that breach', meaning the breach of planning control alleged in notice 2020/5. As a matter of fact, the mixed use constituting the breach of planning control now alleged is a different mixed use from that alleged in the 2018 notice. The addition of the motorcycling/BMX activity track use to the former mixed use represents a significant change in the character of the use and therefore in what the notices are concerned with. The degree of change goes beyond any technical defect in the 2018 notice and the intention of notice 2020/5 is therefore not broadly the same.
12. For these reasons, section 171B(4)(b) cannot apply to the mixed use comprising the alleged breach of planning control in notice 2020/5. It is therefore necessary, on the balance of probability, for the appellant to demonstrate the mixed use began on or before 18 June 2010 (the Relevant Date), 10 years before notice 2020/5 was issued, and continued for a 10-year period without significant interruption. If so, the mixed use will be immune from enforcement action.

The storage use

13. The appellant moved his business to an agricultural building at Mount Pleasant Farm (MPF) in 2001 and obtained a personal planning permission for continued use of the building as a workshop in 2004³. A condition restricted storage, industrial or other business use to the existing buildings, except for the associated parking, manoeuvring, loading, and unloading of vehicles. Apart from those permitted associated activities, the surrounding land was used for the original mixed use of agriculture and keeping of horses at that time.
14. An aerial image from 2006 shows 2 features that the appellant identified as shipping containers undergoing restoration. A shipping container and a static caravan are shown adjacent to the northern boundary in a photograph dated 24 January 2009. An aerial image from June 2009 shows a significant increase in storage, including 3 boats and 3 touring caravans. The shipping containers are not where they were in 2006 and the appellant began letting storage space

³ 04/0002/P/FP, granted 16 March 2004 (the 2004 permission)

in them around this time. No evidence that any of the foregoing was ancillary to the original mixed use of the site was presented.

15. Subsequent aerial images, particularly from September 2015, May 2016, April 2017, May 2018, and May 2020, show a greater number of features spreading towards the western boundary. Nearby residents refer to a growth in storage over that period. Several of these features can be identified as vehicles, touring caravans, boats, and shipping containers. No evidence that they were ancillary to the original mixed use of the site was presented.

The motorcycling/BMX activity track use

16. Some of the aerial images include features alongside the western and southern boundaries of the site that the appellant identified as earth mounds he had formed to facilitate the motorcycling/BMX activity track use. However, while their formation may indicate an intention to use the land in that way, it cannot, of itself, demonstrate whether or when the use was instituted. Neither, if the use was instituted, can it demonstrate that it continued as a permanent use of the land for a 10-year period without significant interruption.
17. The appellant began riding motocross bikes at MPF in his youth, before he owned the site. He joined a motocross club and rode competitively between 1989 and 1991, but that does not confirm any activity at MPF. The appellant and another witness confirm that he formed a small track around that time but there is scant evidence of how often, and over what period, it was used. While the appellant states that he practiced motocross on the land in his teens, the frequency of this is not stated. His evidence does not indicate that anyone else rode there until a friend did in 2013. A witness who visited the site 2 to 5 times each year from before 2002 makes no mention of this use being carried out. It has thus not been demonstrated that such activity was more than occasional or temporary, or that it altered the character of the use of the land.
18. A meeting with the Council in September 2016 touched on the matter of permitted development rights for the temporary use of the land for motocross, described in terms of numbers of events. Class B, temporary use of land, of Part 4 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order) allows motorcycle racing, including speed trials, and practising for those activities, for up to 14 days in any calendar year. However, it is not recorded on how many days the land was being used as a motorcycling/BMX activity track then.
19. A witness for the Rule 6 party confirmed there were events, involving multiple riders, on 3 or 4 weekend afternoons during summer 2017 but made no mention of any such events prior to that or again until May 2020. A log of activity submitted by the Rule 6 party records that a significant change occurred then, with motorbikes being ridden for extended periods on several days each week, totalling 18 days that month. Witnesses also refer to quad bikes being brought onto the site at this time.
20. The foregoing evidence only identifies a level of motorcycling/BMX activity above the temporary use permitted by the Order during May and early June 2020. Accordingly, it has not been demonstrated that a permanent change in the character of the use, through the addition of use as a motorcycling/BMX activity track occurred before May 2020. The change that occurred then, the

addition of a use requiring planning permission, opened a new chapter in the planning history of the site.

Conclusion on ground (d)

21. There is evidence of some storage prior to the Relevant Date. However, a significant component of the mixed use, the use of land as a motorcycling/BMX track, only became apparent as development requiring planning permission in May 2020. A change in the character of the use therefore occurred that month, instituting the mixed use alleged in notice 2020/5.
22. Accordingly, it has not been demonstrated that the mixed use was instituted on or before the Relevant Date. Therefore, it is not immune from enforcement action and the appeal on ground (d) must fail.

Appeal A – the appeal on ground (a)

23. The main issues in considering the deemed planning application (DPA) in this appeal are:

- Whether the mixed use of the land for agriculture, the keeping of horses, the storage of items that are not ancillary to the use of the land for agriculture or the keeping of horses, and the use of land as a motorcycling/BMX activity track, is a use appropriate to the location.
- The effect on the landscape and the character and appearance of the area.
- The effect on the living conditions of nearby people, especially in terms of noise.
- The effect on ecology and biodiversity.
- Flood risk.
- The effect on the rural economy

Reasons

Whether the mixed use is appropriate to the location

24. Although the planning permission for the workshop use includes a condition prohibiting external storage, some items stored on the land appear to relate to the appellant's use of the workshop building for vehicle repairs. While this storage may support the effectiveness of an existing business, evidence that such support could not be provided by other means was not presented.
25. Other storage, including the commercial letting of space within shipping containers, would be more sustainably provided in locations with better accessibility. No justification has been provided for this storage at the site in land use terms. While the opportunities to locate a motorcycle/BMX activity track within or adjacent to a settlement may be limited, there is no evidence that more sustainable locations were investigated.
26. It has therefore not been demonstrated that the mixed use is appropriate for, or requires, a rural location. Accordingly, and in view of the limited accessibility of the site, it is contrary to policy OS2 of the West Oxfordshire Local Plan 2031 (the WOLP), which is the Development Plan for the area.

Landscape and character and appearance

27. The site lies within an area of flat and low-lying cultivated farmland with a good structure of hedgerows and trees. Because of the flat topography of the surrounding river corridor, there are no nearby vantage points with wide unobstructed views into the site. However, the interior of the site, and the storage within it, can be seen from parts of adjacent public rights of way, even though the appellant has removed many of the items listed in notice 2020/5.
28. While there may be a business case for some storage in connection with the appellant's use of the workshop, it has not been defined and cannot be separated from the storage use that notice 2020/5 is concerned with. By reason of its nature and scale, including large structures and objects, the storage element of the mixed use does not conserve or enhance the quality, character, and distinctiveness of the countryside.
29. The visual effect of the motorcycle/BMX activity track on the landscape and on the character and appearance of the area is considered in Appeal B below. However, the noise and other activity associated with a motorcycle circuit are at odds with the otherwise tranquil character of the rural location. While the appellant would accept a planning condition to prevent the use of non-electric motorbikes, it has not been demonstrated that the use would recognise the intrinsic character and beauty of the countryside as a result.
30. The appellant would be prepared to carry out landscape planting if the DPA were permitted and a condition to that effect has been suggested. However, it has not been demonstrated that this would mitigate the identified harm to the tranquil character of the area. The mixed use is therefore contrary to policy EH2 of the WOLP and part 15 of the National Planning Policy Framework (the Framework).

Living conditions

31. Even if there were no opportunities to locate a motorcycle/BMX track within or adjacent to a settlement, that would not mean that a rural location should be pursued if it would have an unacceptable effect on neighbouring occupiers. Video evidence of noise and dust arising from the use of the track by motorcycles was presented to the Inquiry. Noise and dust on that scale are incompatible with the adjoining residential uses, are harmful to the amenity of existing occupants, and cause them unacceptable nuisance.
32. It is suggested this could be addressed by a planning condition to prevent the use of non-electric motorbikes and requiring the track to be sprayed as part of wider measures designed to mitigate noise and dust. I have no doubt that the suggestion was made in good faith and that some improvement over the situation documented in the video could be achieved. However, no assessment of the likely effectiveness of these measures, including how they would be monitored and enforced, has been provided.
33. It has therefore not been demonstrated that harm to living conditions could be mitigated by the imposition of planning conditions. The mixed use is thus contrary to policies OS2 and EH8 of the WOLP and part 12 of the Framework.

Ecology and biodiversity

34. The site is within the Lower Windrush Valley Project Area and special attention and protection should be given to the biodiversity of this area. However, no assessment of the ecological value of the site prior to the change of use, or evidence of any harm to ecology and biodiversity arising from the mixed use has been presented. Nevertheless, it has been suggested that a net gain for biodiversity could be secured by the imposition of an appropriate planning condition if the DPA were to be granted. Accordingly, I do not find conflict with policy EH2 of the WOLP in this respect.

Flood risk

35. Much of the site is within Flood Zone 1, the area with the lowest risk of flooding. However, a significant proportion, along the northern and western fringes and including most of the area currently used for storage, is within Flood Zone 2. This part of the site is therefore at a higher risk of flooding. The approach via Chapel Lane passes through Flood Zones 2 and 3, the latter area being at highest risk.
36. The appellant's flood risk assessment concerns residential use of a mobile home, which is not the subject of notice 2020/5. No assessment relating to the mixed use has been provided. Despite the absence of an assessment specific to the DPA, it is reasonable to conclude that storage of large objects within Flood Zone 2 is likely to alter flood water flows. Furthermore, the motorcycle/BMX activity track use may draw visitors to the site, involving access through Flood Zones 2 and 3. However, the effect of these factors cannot be gauged without an assessment specific to the DPA.
37. Although it has been suggested that flood risk mitigation measures could be secured by planning condition, it has not been demonstrated that flood risk can be satisfactorily managed for the mixed use to be carried out at the site. The DPA is therefore contrary to policy EH7 of the WOLP and Part 14 of the Framework.

The rural economy

38. The production of hay and duck eggs contributes to the rural economy, but these are agricultural activities that notice 2020/5 does not seek to end or restrict. The appellant's diversification of his business activities on the site has not only been to his benefit but has also involved the provision of support to local farm enterprises. However, it has not occurred on a site in or adjacent to a settlement and has not amounted to farm or country estate diversification. Neither has it been demonstrated to be necessary for agricultural production.
39. Accordingly, the mixed use does not accord with, and therefore cannot draw support from, policy E2 of the WOLP.

Conclusion on ground (a)

40. For the reasons given, the mixed use is unacceptable in terms of location and flood risk and through its effect on landscape, the character and appearance of the area, and living conditions. This is contrary to the Development Plan as a whole and Parts 12, 14 and 15 of the Framework. The DPA cannot draw support from policy E2 of the WOLP in terms of its contribution to the rural economy. While I have not found conflict with policy EH2 of the WOLP in

respect of ecology and biodiversity, that does not outweigh the harm already identified. Therefore, the appeal on ground (a) should not succeed.

Appeal A – the appeal on ground (f)

41. Although evidence was not presented in the Inquiry, the appellant had given notice that he considered the requirement to remove any storage associated with the permitted use of the workshop to be excessive. While a notice should not seek the removal of something that has the benefit of planning permission, I have already noted the inclusion of a condition preventing storage outside of the building in the 2004 permission. Accordingly, the requirement does not conflict with that permission and is not excessive.
42. The appellant had also given notice that a requirement to restore the land to agricultural purposes would be excessive in view of the long-standing use for horse keeping and the permitted use of the workshop. However, notice 2020/5 does not apply to the workshop and does not seek restoration to agricultural purposes. Instead, it seeks restoration to a similar condition as the immediately surrounding agricultural land. While the omission of a reference to the horse keeping use may constitute a misdescription, it can have no bearing on the condition of the land, which is the focus of requirements (4) and (5). Nevertheless, the description of the surrounding land can be clarified by variation without causing injustice.
43. Requirement (2) seeks the removal of items that are not ancillary to agricultural and horsicultural use of the land, but the uses are defined as agriculture and the keeping of horses in the alleged breach of planning control. The word 'horsicultural' may therefore give rise to uncertainty and it would cause no injustice to vary notice 2020/5 to refer to horse keeping instead.
44. The appeal on ground (f) succeeds to this extent.

Appeal A – the appeal on ground (g)

45. The grounds of appeal had asserted that the 4-month period for seeding the land with grass or an agricultural crop is insufficient and that notice 2020/5 should instead require this to be carried out by the end of the next growing season. However, in the Inquiry the appellant accepted that 4 months is a reasonable period.
46. Some items stored in the shipping containers are integral to the appellant's business use of the workshop, including the storage of vehicles and vehicle parts and components awaiting work. He considers he would need more than 3 months to relocate this storage without risking closure of his business and suggests an alternative minimum period of 18 months.
47. An aerial image from December 2004 indicates the appellant was initially able to carry out his business without external storage. He identified 2 shipping containers in an image from December 2006, although they were being restored at that time and there is no evidence that they were also being used for storage. While some of the more extensive storage that existed when notice 2020/5 was issued may have been in connection with the use of the workshop, the proportion has not been quantified.
48. In these circumstances, any extension of the period for compliance would apply to all storage, regardless of any business case. The suggested period of at least

18 months would be exceptionally long, tantamount to a temporary planning permission. Allowing uncontrolled storage on the present scale to remain that long would be inconsistent with my findings in the appeal on ground (a).

49. If the storage the appellant considers essential to his business use of the workshop were specified, it could be made the subject of an application to vary the condition of the 2004 permission. However, that is not to suggest that any such application could or should succeed. While 3 months is a reasonable period for an application to be progressed, there would be limited time to make alternative arrangements following a refusal. A 6-month period for compliance with requirements (2) and (3) would therefore provide a greater safeguard to the appellant's business and would not prolong the wider storage identified in the breach of planning control unnecessarily.

50. The appeal on ground (g) succeeds to this extent.

Appeal B – the appeal on ground (d)

51. To succeed on this ground, it is necessary for the appellant to demonstrate, on the balance of probability, that the engineering work to form the track was substantially completed on or before 18 June 2016, 4 years prior to the service of notice 2020/6.

52. No earth mounds that might form part of the engineering work the subject of notice 2020/6 have been identified in any aerial image pre-dating May 2016. However, the appellant states there was a small track around the perimeter of the site before this, which he altered in 2013. Photographs taken that year show bare earth mounds on the perimeter of the land and although the month in which they were taken is not stated, they show trees in leaf, suggesting the mounds were formed in spring or summer 2013. While these features cannot be seen in the aerial images from March 2013 and September 2015, neither is sharply focused.

53. One of the appellant's witnesses recalled seeing a mound, or berm, just inside the entrance gate to MPF but that is outside the area of the works identified in notice 2020/6 and is therefore not subject to its requirements.

54. Significant operations were carried out during May and early June 2020, recorded in the Rule 6 party's log of activity and in subsequent photographs taken by the Council. The last day on which engineering work, described as digging, is recorded in the log is 1 June 2020. The appellant confirmed that this work was carried out with the aid of 2 other people and using an excavator to re-grade the land.

55. For these reasons, the engineering work constituting the breach of planning control was not substantially completed on or before 18 May 2016 and is therefore not immune from enforcement action. The appeal on ground (d) fails accordingly.

Appeal B – the appeal on ground (c)

56. The appellant contends that the engineering work alleged to amount to the construction of an outdoor dirt track, including the formation of earth mounds, was not new development but was repair and maintenance of an existing track. The earlier track he described was around the perimeter of the land and thus very different in form and siting from the track the subject of notice 2020/6.

57. There is some overlap between the 2 near the western perimeter but it has not been demonstrated that a track had previously existed where the great majority of the engineering work was undertaken in May and June 2020. It is probable that some material from the previous track was incorporated in the new one. However, as a matter of fact and degree, that would have been part of the formation of the new track, not the repair or maintenance of an earlier one.

58. The engineering work of constructing the outdoor dirt track, including the formation of earth mounds, is development requiring express planning permission by reason of section 55(1) of the Act. There is no evidence that such permission has been granted and the work is therefore in breach of planning control.

59. For these reasons, the appeal on ground (c) must fail.

Appeal B – the appeal on ground (a)

60. The main issues in considering the DPA in this appeal are:

- The effect of the track, including the formation of earth mounds, on the landscape and the character and appearance of the area.
- The effect on ecology and biodiversity.
- The effect on flood risk.

Reasons

Landscape and character and appearance

61. Like the storage use considered in Appeal A, the track can be seen in some views from adjacent public rights of way. The topography of the track is markedly different from the surrounding flat landform of low-lying cultivated farmland. It therefore does not conserve or enhance the quality, character, and distinctiveness of the countryside.

62. The appellant would accept a condition requiring landscape planting if the DPA were to be allowed but no indication of what planting might be achieved, and how it might screen the track has been provided. Accordingly, it has not been demonstrated that the identified harm could be suitably mitigated by the imposition of planning conditions and the track is therefore contrary to policy EH2 of the WOLP and part 15 of the Framework.

Ecology and biodiversity

63. Notwithstanding the site's location within the Lower Windrush Valley Project Area, there is no assessment of the ecological value of the site prior to the works being carried out. However, neither has evidence of any harm to ecology and biodiversity arising from them been presented. Accordingly, I do not find conflict with policy EH2 of the WOLP in this respect.

Flood risk

64. The track is partly within Flood Zone 2, where there is a medium risk of flooding. While the formation of mounds was accompanied by excavation, the change in the landform has the potential to alter the flow of water in a flooding

event. As with Appeal A, the only assessment of flood risk is in respect of a matter that is not alleged in notice 2020/6 and is therefore of limited value.

65. Without a flood risk assessment specific to the site and the DPA, it has not been demonstrated that flood risk can be satisfactorily managed with the track in place. The DPA is therefore contrary to policy EH7 of the WOLP and Part 14 of the Framework.

Conclusion on ground (a)

66. For the reasons given, the track is unacceptable in terms of its effect on landscape, the character and appearance of the area, and its potential effect on flood risk. This is contrary to policies EH2 and EH7 of the WOLP and Parts 14 and 15 of the Framework. While I have not found conflict with policy EH2 of the WOLP in respect of ecology and biodiversity, that does not outweigh the harm already identified. Therefore, the appeal on ground (a) should not succeed.

Appeal B – the appeal on ground (g)

67. As with Appeal A, it was originally asserted that the 4-month period for seeding the land with grass or an agricultural crop is insufficient and that notice 2020/6 should instead refer to the next growing season. However, in the Inquiry the appellant accepted that 4 months is a reasonable period and the appeal on ground (g) must fail.

Appeal A – Conclusion

68. For the reasons given above, I conclude that the appeals on grounds (d) and (a) should not succeed and the appeals on grounds (f) and (g) should succeed. I shall uphold enforcement notice 2020/5 with variations and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Act.

Appeal B – Conclusion

69. For the reasons given above, I conclude that the appeal should not succeed. However, and in keeping with my findings on ground (f) in Appeal A, a variation should be made in requirement (1) to acknowledge the use for keeping of horses. I am satisfied that no injustice would arise from this.
70. Subject to this variation I shall uphold enforcement notice 2020/6 and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Act.

Appeal A – Formal Decision

71. It is directed that enforcement notice 2020/5 is varied in section 5 by:
- The deletion of the words “horsicultural use” and the substitution of the words “horse keeping uses” in (2);
 - The insertion of the words “and horse keeping” after the word “agricultural” in (4); and
 - The insertion of the words “and horse keeping” after the word “agricultural” in (5).

- The deletion of the words “3 months” and the substitution of the words “6 months” in the sub-heading setting out the period for compliance with requirements (2) and (3).

72. Subject to these variations, the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Appeal B – Formal Decision

73. It is directed that enforcement notice 2020/6 is varied in section 5 by the insertion of the words “and horse keeping” after the word “agricultural” in (1).

74. Subject to this variation, the appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

Mark Harbottle

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Matthew Prickett and Jan Clements

They called
Matthew Prickett
Jan Clements
Malcolm Davis

FOR THE LOCAL PLANNING AUTHORITY:

Charles Merrett of Counsel

He called
Chris Wood PG Dip TP

Senior Planning Appeals Officer,
West Oxfordshire District Council

FOR THE RULE 6 PARTY:

Steven Sensecall BA (Hons) Dip TP MRTPI

Partner, Carter Jonas LLP

He called
Carole Boyes-Weston
Greg Sharp-Dent

Nicola Brock BA Hons Dip TP MRTPI

Partner, Carter Jonas LLP

Documents submitted at the Inquiry

- 1 Enlarged copies of aerial images
- 2 Alternative enforcement notice plan
- 3 The log of activity referred to in Carole Boyes-Weston's statement
- 4 Appeal decisions APP/Q3115/C/18/3201871 & 3201874 relating to land known as Ten Acre Farm, Beckley, Oxfordshire

Documents submitted following the Inquiry

- 1 The Council's comments on conditions
- 2 The Rule 6 party's comments on conditions
- 3 High Court transcript of R (oao Lambrou) v SSCLG [2013] EWHC 325 (Admin)

Annex to appeal decision ref APP/D3125/C/20/3256208

Section 3: THE BREACH OF PLANNING CONTROL ALLEGED

Without planning permission, a material change of use of the land (not including the building and area coloured blue and green respectively) from a mixed use of agriculture and the keeping of horses to a mixed use of (i) agriculture; (ii) keeping of horses; (iii) storage of non-agricultural items that are not ancillary either to the agricultural use of the land or to its use for the keeping of horses, including but not limited to the following items: non-agricultural vehicles (including cars, vans, lorries, fork lift trucks, construction plant, domestic lawn mowers, motor bikes (whether or not in working condition)), vehicle parts (including engines, seats, tyres, and body panels), caravans (including static and touring caravans), metal storage and other containers, building materials, scrap metal, gas bottles, tyres, domestic radiators, windows, furniture, boats, gliders, glider and other trailers, trampolines, toys, white goods, deckchairs, picnic tables, ladders, fence panels, plastic and other waste materials; and (iv) use as a motorcycling/BMX activity track.

Section 5: WHAT YOU ARE REQUIRED TO DO

Within 1 week of the date on which this notice comes into effect

- (1) Cease the use of the land as a motorcycling/BMX activity track.

Within 3 months of the date on which this notice comes into effect

- (2) Remove those items that are not ancillary to the agricultural and horsicultural use of the land, including non-agricultural vehicles (including cars, vans, lorries, fork lift trucks, construction plant, domestic lawn mowers, motor bikes (whether or not in working condition)), vehicle parts (including engines, seats, tyres, and body panels), caravans (including static and touring caravans), metal storage and other containers, building materials, scrap metal, gas bottles, tyres, domestic radiators, windows, furniture, boats, gliders, glider and other trailers, trampolines, toys, white goods, deckchairs, picnic tables, ladders, fence panels, plastic and other waste materials; and
- (3) Cease the use of the land for storage.

Within 4 months of the date on which this notice comes into effect

- (4) Reinstate the land on which the track was located to natural ground level and to a similar condition as the agricultural land immediately surrounding it by seeding it with grass or an agricultural crop; and
- (5) Reinstate the land used for storage to natural ground level and to a similar condition as the agricultural land immediately surrounding it by seeding it with grass or an agricultural crop; and
- (6) Remove from the land any excess soil and/or other materials that are not derived from the site and that have been used to create the motorcycling/BMX activity track.

Annex to appeal decision ref APP/D3125/C/20/3256211

Section 3: THE BREACH OF PLANNING CONTROL ALLEGED

Without planning permission, the carrying out of works to form an outdoor dirt track including the formation of earth mounds, on the part of the land coloured brown on the attached plan.

Section 5: WHAT YOU ARE REQUIRED TO DO

Within 4 months of the date on which this notice comes into effect

- (1) Reinstate the land on which the track was located to natural ground level and to a similar condition as the agricultural land immediately surrounding it by seeding it with grass or an agricultural crop; and
- (2) Remove from the land any excess soil and/or other materials that are not derived from the site and have been used to create the motorcycling/BMX activity track.

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Costs Decision

Site visit made on 7 December 2021

by Helen Davies

an Inspector appointed by the Secretary of State

Decision date: 15th December 2021

Costs application in relation to Appeal Ref: APP/D3125/D/21/3283707 12 Early Road, Witney OX28 1EN

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Dan Coulson for a full award of costs against West Oxfordshire District Council.
 - The appeal was against the refusal of planning permission for a development described as 'A ground floor rear extension to the kitchen to the existing rear edge of the house. A first floor rear extension is also applied for with the rear edge stepped back by 1 metre'.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.
3. The applicant states that the appeal was unnecessary as the proposal complies with the development plan. The applicant also states that the Council did not fully justify their decision or assess the local context, and failed to correctly apply policies, thereby failing to consider the application in a reasonable manner.
4. Planning Practice Guidance states that examples of unreasonable behaviour by the Council include failure to substantiate reasons for refusal; vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis; and acting contrary to national or local policy.
5. The reason for refusal set out in the decision notice is sufficiently complete, precise, specific, and relevant to the application. It also clearly states the policies of the West Oxfordshire Local Plan 2031 that the proposal would be in conflict with. This reason was adequately substantiated by the Council in its Officer Report, which considered the context and set out how the proposal would result in harm to the character and appearance of the host dwelling and the area.
6. The application decision is one which is a matter of judgement. It can be seen from my appeal decision that I agreed with the Council that there were sufficient grounds for refusing planning permission in regard to harm to the

character and appearance of the host dwelling and the area. I also found that local and national policy had been applied in an appropriate way. Consequently, I am satisfied that the Council has shown that it undertook an appropriate assessment of context and was able to substantiate the reason for refusal, in accordance with policy.

7. As a result, it follows that I cannot agree that the Council has acted unreasonably in this case. As such there can be no question that the Applicant was put to unnecessary or wasted expense.

Conclusion

8. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Planning Practice Guidance, has not been demonstrated.

Helen Davies

INSPECTOR



Appeal Decision

Site visit made on 7 December 2021

by Helen Davies

an Inspector appointed by the Secretary of State

Decision date: 15th December 2021.

Appeal Ref: APP/D3125/D/21/3283707

12 Early Road, Witney OX28 1EN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Dan Coulson against the decision of West Oxfordshire District Council.
 - The application Ref 21/01662/HHD, dated 4 May 2021, was refused by notice dated 4 August 2021.
 - The development proposed is described as 'A ground floor rear extension to the kitchen to the existing rear edge of the house. A first floor rear extension is also applied for with the rear edge stepped back by 1 metre'.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for an award of costs was made by Mr Dan Coulson against West Oxfordshire District Council. This application is the subject of a separate decision.

Preliminary Matters

3. There is an existing two storey wing to the rear of the dwelling at the appeal site. The Council refer to the current proposal as 'another two storey extension'. I have not been provided with information that allows me to identify what may have been the original dwelling and what may be a later extension. Therefore, I have considered the proposal in the context of the existing dwelling, which includes the two storey rear wing.
4. The description of development refers to a ground floor extension and a first floor extension as though they may be separate elements. It is clear from the submitted drawings that they form one development and I have considered the proposal on the basis of the submitted drawings.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the host dwelling and the surrounding area.

Reasons

6. The appeal site is part of a modern housing development with a mix of two storey dwellings and bungalows. The dwellings are of a similar size footprint with distinct spaces between them. These visual breaks in the built form,

combined with the mix of dwelling heights, contribute an openness to the streetscene, which is a positive element of the character and appearance of the area.

7. The host dwelling is two storeys and is adjoined to 14 Early Road by their garages. To the other side, No 10 Early Road is a detached bungalow with the main front elevation set well back from the front elevation of the host dwelling. Due to the separation, set back and difference in heights, the visual break between Nos 10 and 12 is pronounced and makes a positive contribution to the openness of the area.
8. The host dwelling has a large two storey gabled wing across part of the rear elevation. A number of other dwellings appear to have a similar rear wing, so the host dwelling is currently fairly typical of the scale and design of the two storey dwellings in the area.
9. The proposed extension would fill the remainder of the width between the existing rear wing and the main side elevation facing No 10, with no set down at the eaves, and only a relatively small set back from the rear elevation at first floor. The gable end of the proposal would be narrower than the existing rear gable and set down at the ridge. Despite this and the use of matching materials, due to the design and dimensions the extension would not appear sufficiently subservient in scale to the existing rear wing. As such, the proposal would not respect the existing form and appearance of the host dwelling and would result in a dwelling disproportionate in size to other two storey dwellings in the area.
10. The impact of the proposal on the surrounding area depends on how visible the extension would be from outside of the appeal site. No 10 is set well back from the host dwelling and is single storey. The proposal is located on the side of the host dwelling facing No 10. As a result, elements of the extension would be clearly visible from public viewpoints along Early Road. The proposed extension would also be partially visible from Stonebridge Close to the rear, though these views are at a distance and partially screened by trees.
11. The proposal would result in the side elevation facing No 10 being approximately 9.5 meters deep at first floor. From the perspective of approaching the site from the south west, this would present a bulky and highly visible side elevation. The modest set down of the roof ridge would do little to reduce this bulk. The extension would reduce the visual break between dwellings and the sense of openness in this section of Early Road would be much reduced.
12. Taken together, the disproportionate scale of the resulting dwelling, the visibility of the extension from the road, and the reduction in the sense of openness would cause unacceptable harm to the host dwelling and the streetscene.
13. The appellant has stated that the Council placed too much emphasis on the West Oxfordshire Design Guide Supplementary Planning Guidance (DG). Policy OS4 of the West Oxfordshire Local Plan 2031 (LP) specifies that new development should have regard to specific design advice contained in guidance, including the DG. The DG sets out that although weighted towards older traditional house types, the stated key design principles are applicable to all dwellings, irrespective of age or size. The appellant has also stated that LP

Policies OS2 and OS4 should not apply to this proposal as they are focused on major development. However, neither of these policies specifically state they are only applicable to major development or that they are not applicable to extensions to dwellings. I find that they are relevant to the proposal and have considered them accordingly.

14. My attention has been drawn to a recent grant of planning permission for a two storey rear extension at 33 Early Road. Full details of that proposal are not before me, but the plans have been provided. There are material differences between the plans for No 33 and the appeal proposal. Amongst other differences, the plans for No 33 show a pronounced break between the existing and proposed gable roof, and a two storey element with a depth significantly less than proposed for the appeal site. I viewed No 33 during my site visit and note that due to the site configuration, the proposed extension would not be readily visible from the road. Therefore, the development for which permission has been granted at No 33 is not directly comparable to the appeal proposal to such an extent that it weighs in its favour. In any event, each case must be considered on its own merits.
15. I conclude that the proposed development would cause unacceptable harm to the character and appearance of the host dwelling and the surrounding area. Consequently, the development would not comply with Policies OS2, OS4 and H6 of the LP, or guidance contained in the DG, which together, amongst other things, seek to ensure that development is well designed, contributes to local distinctiveness and is of a scale that is appropriate to the dwelling and its context.

Other Matters

16. The appellant notes that the National Planning Policy Framework (the Framework) and LP Policy OS1 support sustainable development, and LP Policy OS3 supports the efficient use of land and building. The appellant states that the proposal is a form of sustainable development, as well as making efficient use of the site by providing extended living space. I do not question the benefit of the development to the occupants, or the compliance with overarching aims of the Framework and Policies OS1 and OS3. However, these factors are not sufficient to outweigh the harm identified above and do not lead me to determine the appeal otherwise than in accordance with the development plan.

Conclusion

17. For the reasons given above and taking into account the development plan as a whole and all other matters raised, I conclude that the appeal should be dismissed.

Helen Davies

INSPECTOR

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