

WEST OXFORDSHIRE DISTRICT COUNCIL

LOWLANDS AREA PLANNING SUB-COMMITTEE

Date: 19th April 2022

REPORT OF THE BUSINESS MANAGER-DEVELOPMENT MANAGEMENT



WEST OXFORDSHIRE
DISTRICT COUNCIL

Purpose:

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

Recommendations:

To determine the applications in accordance with the recommendations of the 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.

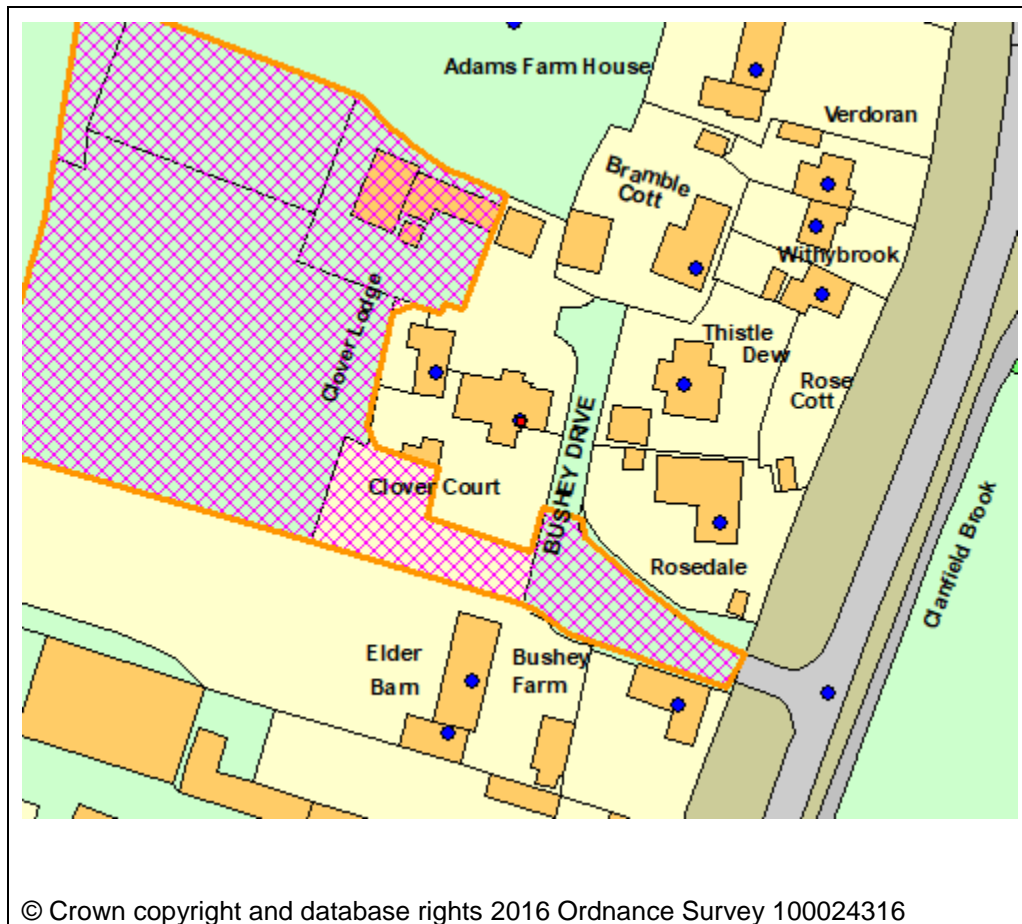
Please note that:

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

Item	Application Number	Address	Officer
	21/01963/RES	Clover Court, Bushey Drive, Clanfield, Bampton	David Ditchett
	21/03643/FUL	46 Market Square, Witney	Esther Hill
	21/03644/LBC	46 Market Square, Witney	Esther Hill
	21/03720/FUL	44 Common Road, North Leigh	David Ditchett

Application Number	21/01963/RES
Site Address	Clover Court Bushey Drive Clanfield Bampton Oxfordshire OX18 2TS
Date	5th April 2022
Officer	David Ditchett
Officer Recommendations	Provisional Approval
Parish	Clanfield Parish Council
Grid Reference	428369 E 201453 N
Committee Date	19th April 2022

Location Map



Application Details:

Reserved Matters application for four dwellings (appearance, landscaping, layout and scale), pursuant to outline permission 19/00115/OUT

Applicant Details:

Mr Rob Stewart
14 The Pines
Faringdon
SN7 8AU

I CONSULTATIONS

Parish Council

Clanfield Parish Council has considered the documents relating to the above and has the following comments for your consideration please.

- o Parking/Traffic along Main street

The PC is currently in consultation with OCC Highways regarding the major problem of parking and traffic flow which have followed your earlier approval of a cafe (Blakes) and renovations to the Double Red Duke on the corner of Main Street/Pound lane with no adequate parking provision. This is a major problem for residents here.

The number of vehicles that this development will feed onto Main Street will be 20+ and the development strategy openly advertises that there is plenty of room for more vehicles than those outlined on the visuals! Main Street, due to on road parking has become effectively a single track road with serious traffic flow problems. This development will further exacerbate this situation

- o The design of the proposed dwellings is not in keeping with the setting or nearby properties including listed buildings.
- o Drainage is of serious concern until Thames Water complete repair of all the leaks in the infrastructure here. Maybe WODC would address this with them?

OCC Highways

The proposal, if permitted, will not have a significant detrimental impact (in terms of highway safety and convenience) on the adjacent highway network

Recommendation: Oxfordshire County Council, as the Local Highways Authority, hereby notify the District Planning Authority that they do not object to the granting of planning permission, subject to the following conditions:

- o G28 parking as plan
- o G25 drive etc specification
- o G35 SUDS sustainable surface water drainage details
- o G32 turning facility

WODC Drainage Engineers

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. As for the outline permission, please consider adding the following condition to any grant of permission as a precaution.

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.

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

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

District Ecologist

07/07/2021

Thank you for consulting me on the above planning application (application no. 21/01963/RES). I have reviewed the details that have been submitted and have the following comments where additional information is required before a positive determination of the application.

I understand that no ecology report had been submitted for the outline planning application (application no. 19/00115/OUT). However, without an ecological assessment of the site, the habitats on site and the potential for protected and priority species cannot be fully understood. The site has the potential to offer suitable shelter, foraging and commuting habitat (e.g. hedgerows, grassland and potential scrub habitat) for bats, birds, badgers, reptiles, amphibians, hedgehogs and dormice. The application site may also hold botanical interest of high ecological value and the hedgerows along the boundaries may qualify as "important" under the Hedgerow Regulations 1997 and/or classify as habitats of principle importance under Section 41 of the NERC Act 2006. The site is also located in close proximity to water bodies and woodlands in the surrounding area. Therefore the condition of the habitats, the potential for protected and priority species and the impacts of the proposal should be fully assessed.

I therefore recommend that a Preliminary Ecological Appraisal (PEA) is carried out by a professional / suitably qualified ecologist before this application is positively determined. The report must be in accordance with the best practise guidance published by CIEEM (Chartered Institute for Ecology and Environmental Management). Where necessary, and as indicated in the PEA, more detailed surveys may also be required (i.e. Phase 2 surveys) and these should be presented within an Ecological Impact Assessment (EclA) to bring together all the results of the preliminary appraisal and subsequent phase 2 surveys, along with an impact assessment of the proposal, and recommendations for avoidance, mitigation, compensation and enhancement. The report should provide an assessment to survey the habitats on site (including a hedgerow assessment) and the potential for protected and priority species including bats, birds, reptiles, amphibians, badger, hedgehogs and dormice.

The hedgerows on site may qualify as "important" under the Hedgerow Regulations 1997 and/or classify as habitats of principle importance under Section 41 of the NERC Act 2006. The LPA has a duty to ensure that these hedgerows are conserved and enhanced. Therefore the features should be retained within the public realm (i.e. do not become domestic curtilage) through providing buffers (of at least 5 metres) between the residential gardens and hedgerow boundaries so that appropriate management can be secured in the long-term.

WODC Env Health - Lowlands Thank you for the opportunity to consult on this application.

I have No Objection in principle.

WODC Drainage Engineers 11/03/2022

I note there was an appeal for this development that was successful and that the Planning Inspectorate have specified a s/w condition. The Statement submitted for this RES application states that percolation tests have been carried out and the result was considered acceptable for soakaway drainage, but the final engineering calculations for the drainage strategy will not be carried out until reserved matters have been granted. We will need to see the full test results as part of the strategy (a value is indicated in the calculations) as well as measurements of depth to the water table, due to the high susceptibility to groundwater flooding on the site. I note the objections post the appeal decision, but the drainage strategy will need to ensure that flood risk is not increased on site or to neighbouring properties as a result of the development.

The Applicant has proposed that the remaining surface water drainage matters be subject to a planning condition, to be

discharged prior to commencement of development. If this is to replace the condition specified in the appeal decision it should be -

That, prior to the commencement of development, a full surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the size, position and construction of the drainage scheme and results of soakage tests carried out at the site, to demonstrate the infiltration rate. Three test results should be submitted for each soakage pit as per BRE 365, with the lowest infiltration rate (expressed in m/s) used for design. The details shall include a management plan setting out the maintenance of the drainage asset. The development shall be carried out in accordance with the approved details prior to the first occupation of the development hereby approved and shall be maintained in accordance with the management plan thereafter. Development shall not take place until an exceedance flow routing plan for flows above the 1 in 100 year + 40% CC event has been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure the proper provision for surface water drainage and/ or to ensure flooding is not exacerbated in the locality (The Cotswold Strategic Flood Risk Assessment, National Planning Policy Framework and Planning Practice Guidance). If the surface water design is not agreed before works commence, it could result in abortive works being carried out on site or alterations to the approved site layout being required to ensure flooding does not occur

In these cases the following notes should also be added to the decision notice:

NOTE TO APPLICANT: The Surface Water Drainage scheme should, where possible, incorporate Sustainable Drainage Techniques in order to ensure compliance with;

- Flood and Water Management Act 2010 (Part 1 - Clause 27 (1))
- Code for sustainable homes - A step-change in sustainable home building practice
- The local flood risk management strategy published by Gloucestershire County Council, as per the Flood and Water Management Act 2010 (Part 1 - Clause 9 (1))
- CIRIA C753 SuDS Manual 2015
- The National Flood and Coastal Erosion Risk Management Strategy for England, produced by the Environment Agency in July 2020, pursuant to paragraph 9 of Section 7 of the Flood and Water Management Act 2010.
- Non-statutory technical standards for sustainable drainage systems (March 2015)

District Ecologist

14/02/2022

Thank you for consulting me on the above planning application; I have the following comments to make with regard to biodiversity considerations.

A Preliminary Ecological Appraisal was requested in the previous Assistant Biodiversity Officer comments on the application dated July 2021. The preliminary ecological assessment site visit was carried out in October 2021.

I am satisfied overall with the findings of the Preliminary Ecological Assessment report (dated 09/12/21, prepared by 4 Acre Ecology Ltd.) and the recommendations for biodiversity enhancements.

The ecological report confirms that there are no "hedgerows" bordering the site - the southern boundary is comprised of an existing close-boarded fence with over-hanging vegetation and the western boundary is formed by a dry ditch with ruderal vegetation and some occasional young Elder and Hawthorn shrubs. A remnant hedgerow forms part of the northern boundary next to the existing barn.

Although the site lies within the amber zone of the great crested newt district licensing modelled map, the ecological report confirms that previous surveys of the nearby ponds have not found any evidence of this species. The site is a well-managed paddock and contains limited potentially suitable terrestrial habitat for this protected species.

External lighting should be sensitively designed with foraging/commuting bats in mind.

Precautionary mitigation measures for badgers and nesting birds are included in the recommendations of the report.

The development should be implemented in accordance with Section 7 of the Preliminary Ecological Assessment report (pages 18- 19) to ensure adequate protection and enhancement of biodiversity.

Enhancements include gaps in fencing for hedgehogs, native planting and new hedgerow planting. However, I also recommend that the proposal is an opportunity to provide integrated bird and bat boxes within the new buildings. Swift bricks should be installed in clusters of at least 3 no. to provide suitable nesting locations for this species, which is solely reliant on buildings for breeding. Other species, including priority species - house sparrows and starlings - are also able to use these bricks, but swifts would not use boxes specifically designed for house sparrows and starlings. House martin nest cups could also be externally mounted in suitable locations.

The side elevations of the new houses provide the best opportunities for bird and bat boxes, being located away from doors and windows, and majority of disturbances. I would recommend that bird boxes be installed into the north or north-east facing elevations and bat boxes into the south or southeast facing elevations. Either a condition requiring certain boxes to be integrated into specific elevations or for details to be submitted for approval should be attached to planning consent.

I also recommend an informative with regard to protected species and enhancements.

With regard to the landscaping proposals, limited information has been provided (e.g. as shown on the landscape strategy drawing P02) and full details of all hedgerow planting and wildflower meadow creation must be provided for approval as a condition of consent. A standard landscaping scheme condition should be applied with reference to the specific biodiversity enhancements.

Conditions

a) The development shall be completed in accordance with the recommendations in Section 7 of the Preliminary Ecological Assessment report dated 09/12/21 prepared by 4 Acre Ecology Ltd, as submitted with the planning application. All the recommendations shall be implemented in full according to the specified timescales, unless otherwise agreed in writing by the local planning authority.

REASON: To ensure that biodiversity is protected and enhanced 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.

b) The development shall be carried out in accordance with the following biodiversity enhancement features. All the features listed below shall be implemented in full, unless otherwise agreed in writing by the local planning authority, which shall thereafter be permanently retained and maintained. i. At least 1 no. integrated /built-in bat box (e.g. tube, brick or access panel) to be installed into the south or southeast-facing (side) elevation walls of the new buildings (a total of 4 no boxes); ii. Clusters of at least 3 no. swift bricks to be integrated /built-in to the north or north-eastern (side) elevation walls of the new building at 1 metre intervals; and iii. Creation of gaps beneath close-boarded fencing for hedgehogs.

Reason: To enhance biodiversity in accordance with Policy EH3 of the West Oxfordshire District Local Plan 2031, paragraphs 174, 179

and 180 of the National Planning Policy Framework and in order for the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

c) Standard landscape scheme condition

Before the occupation of the development hereby approved, a comprehensive landscape scheme shall be submitted to and approved in writing by the Local Planning Authority, including full details of native, species-rich hedgerow planting and wildflower meadow areas (including a seed mix specification with supplier details), a 5-year aftercare period maintenance plan and a long-term Biodiversity Management Plan (for the hedgerows and wildflower meadow areas). 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.

d) And the associated Landscaping scheme delivery

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.

e) Before occupation, 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.

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.

Informative

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.

There is a low risk that great crested newts (GCN) may be present at the application site. However, the application site lies within the amber impact zone as per the modelled district licence map, which indicates that there is moderately 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.

Works should not take place that will harm nesting birds from March to August inclusive. All British birds (while nesting, building nests and sitting on eggs), their nests and eggs (with certain limited exceptions) are protected by law under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000. Works that will impact upon active birds' nests should be undertaken outside the breeding season to ensure their protection,

i.e. works should only be undertaken between August and February, or only after the chicks have fledged from the nest and replacement provision made so that there is no net loss of biodiversity.

For more information on hedgehog gaps/holes in fences and walls, please visit <https://www.hedgehogstreet.org/help/hedgehogs/link-your-garden/>

The applicant and their architect should note the advice of Swift Conservation with regard to the installation of the swift bricks available at <https://www.swift-conservation.org/Nestboxes&Attraction.htm#Built%20in>

Conservation Officer

30/09/2021

Here are four houses and two designs, one design with two versions, handed. They are all of pretty much the same form though, with double-pile massing and with long valley gutters at high level

between the front and rear blocks. This gives blocky, deep-plan massing, that would appear somewhat voluminous - and it isn't particularly characteristic of our vernacular buildings of this scale.

I suggest that they need a re-design, with perhaps two perpendicular rear wings of different lengths, and perhaps different heights - each set well in from the main gable ends. And in the version with front perpendicular wings, they also need in-setting from the main gable ends.

Otherwise, the roof pitch, fenestration, materials, etc., look fine.

Parish Council

No Comment Received.

Conservation Officer

17/02/2022

Function should indeed follow form - but good design is a happy marriage of both layout and massing - neither should compromise the other.

Whether they use their double-pile approach or the suggested perpendicular wing approach is not the greatest concern, to be honest. It is the voluminous four-square blockiness that is the real issue - and as the designs currently stand, I suggest that this needs to be mitigated.

So, if you are minded to support their current approach, I suggest that the rear elements should be further inset from the gable ends

of the frontage blocks - say by at least 600 mm or so - noting that the current insets are somewhat apologetic.

WODC Drainage Engineers No Comment Received.

Conservation Officer 28/03/2022
I think you have probably done enough with this - the perpendicular rear wings and the insets are a significant improvement. And I don't think that the presence would be that great from Main Street, whilst in longer views from the north and west the development would be seen against existing buildings.

2 REPRESENTATIONS

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

7 third part objections (from 4 neighbours) received relating to:

- 1) The new hedge is a welcome addition but appears to be outside of the development site;
- 2) The LPA has a duty to ensure that hedgerows are conserved and enhanced;
- 3) Hedges should be retained within the public realm and buffers (of at least 5 metres) between the residential gardens and hedgerow boundaries provided so that appropriate management can be secured in the long term;
- 4) The scale of these houses - large five bedroom dwellings- and the materials - in particular the slate roofs - are not in keeping with Clanfield village;
- 5) Error in Design & Access Statement - There has been no development across the field on the northern side of the plot;
- 6) A detailed landscape and planting schedule should be provided showing the replacement of the hedgerow to the western boundary;
- 7) The Masterplan Strategy Document does not allow sufficient space to plant hedgerows on the northern boundary and where the garage of plot 3 is being built on the boundary line - plot 3 will need to move further away from the northern boundary line to accommodate planting of the new hedgerow along this boundary;
- 8) The proposed space currently allocated within the development area for landscaping on the western and northern boundaries is insufficient. The design layouts should be amended to allow adequate space for planting within the development area;
- 9) The northern boundary is directly opposite the listed building Setting Barn and its gardens;
- 10) The proposed landscaping for the northern boundary is insufficient to provide screening of the development to Setting Barn. A revised and more detailed planting schedule for landscaping is required, including trees, along this border to screen the development from the heritage assets located in this area;
- 11) the current designs are in fact large executive detached homes that do not compliment the local character of the surrounding buildings. The roof ridge heights are approximately 8.5 metres, substantially higher than the neighbouring barns and will be dominant in the landscape. The proposed slate roofing is not in keeping with the neighbouring properties;

- 12) The ridge heights and use of slate on the proposed dwelling roofs should be reconsidered and amended in-line with the surrounding environment
- 13) The design and scale of the proposed dwellings are not in keeping with the surrounding character and adjacent properties of Elder Barn and Setting Barn;
- 14) Flood risk;
- 15) Witnessed surface water laying on the field and manege area on the northern boundary during periods of high rainfall;
- 16) We note that soak-away drainage is proposed for each dwelling, this approach is not recommended in areas where running sand may be encountered and therefore should be subject to approval;
- 17) A full assessment of the impact of this development on the existing drainage and capacity of the local sewer system should be conducted;
- 18) No ecology report has been submitted for the outline planning application. Without an ecological assessment of the proposed site, existing biodiversity cannot be understood and therefore cannot be managed effectively or properly, for which both the LPA and applicant have a duty of care;
- 19) The hedgerows illustrated within the plans do not appear to match with reality. The mature hedgerows to the western boundary were removed in January 2021 and have not yet been replaced, and those shown upon the plans appear to lay outside of the boundaries of this project;
- 20) The lack of vegetation along the northern boundary line as outlined is insufficient to provide screening of the development to neighbouring properties;
- 21) More effective screening is required for reasons of privacy, as well as maintaining the significant historical importance and traditional character for Adams Farmhouse, and the listed properties of Setting Barn and High House - by creating a buffer barrier to contrast the comfortably old and the stark new;
- 22) The appearance does not compliment or follow the style of nearby buildings or hold any of the 'cotswold' type character of dwelling style traditional to the area. Slate roofs are not commonplace within the village and would appear dark and stark against other properties and the skyline, especially at the height to which they are planned to be (roof ridge heights 8.5m), which would overshadow neighbouring properties and appear unsightly;
- 23) Bushey Drive has been the original gravelled farm entrance, of Bushey Farm for nearly two centuries;
- 24) The existing gravel Bushey Drive has been raised by previous owners by adding gravel and is more than 15cm higher than the original farm drive. This causes rain run off into Bushey Farm slightly mitigated by a channel dug alongside the southern edge - These plans dramatically increase the problem by replacing the permeable gravel with tarmac and the area of Bushey Drive
- The drive has always been designated for light domestic traffic, its infrastructure is fragile and will be regularly damaged by refuse lorries using the proposed refuse collection point.
- 25) Highway safety;
- 26) Poor existing sewer network;
- 27) The addition of four houses are not needed in an area, with large numbers already existing and more being built in the surrounding area; and
- 28) The design of the houses is not in keeping with the setting of nearby houses that includes listed buildings.

3 APPLICANT'S CASE

3.1 The submitted Design and Access statement concludes as follows:

3.2 The proposals are demonstrably deliverable based on the site assessment work that has been carried out to date, and the masterplan describes a high quality and locally distinguishable new residential offering for Clanfield.

3.3 The NPPF and the Government's growth agenda seek to ensure that sufficient land is available in the appropriate locations to increase housing supply, support growth and boost home ownership.

3.4 The Site is within the control of the owner, who is committed to delivering the development to help meet the housing need.

3.5 This Site is appropriately located in relation to the services and facilities in Clanfield alongside nearby education opportunities. Furthermore, access and movement infrastructure support access to the wider facilities in the area.

3.6 The Site is suitable for housing development because it:

- o Offers a suitable location in relation to existing residential areas around Clanfield;
- o Can be developed immediately;
- o Has recognisable and defensible NPPF compliant boundaries;
- o Has no identified technical constraints that would prevent it being developed for residential development immediately;
- o Is highly sustainable, within walking distance to local services and facilities in Clanfield, and;
- o Can deliver an enhanced and extensive range of biodiversity and landscape benefits.

3.7 The masterplan illustrates that the Site can deliver 4 new dwellings which would contribute to meeting the housing needs of the area and provide a fantastic new addition to Clanfield.

3.8 This document identifies that the Site has no restricting constraints for development. These reserved matters should, therefore, be approved.

4 PLANNING POLICIES

OS1NEW Presumption in favour of sustainable development

OS2NEW Locating development in the right places

OS3NEW Prudent use of natural resources

OS4NEW High quality design

H1NEW Amount and distribution of housing

H2NEW Delivery of new homes

H6NEW Existing housing

T1NEW Sustainable transport

T3NEW Public transport, walking and cycling

T4NEW Parking provision

EH3 Biodiversity and Geodiversity

EH7 Flood risk

EH8 Environmental protection

EH9 Historic environment

EH11 Listed Buildings

EH13 Historic landscape character

DESGUI West Oxfordshire Design Guide

NPPF 2021

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

PLANNING ASSESSMENT

Background Information

5.1 This application relates to Clover Court Bushey Drive Clanfield Bampton. The site comprises stables, barn and manege positioned in the northern part of the site with the remainder of it open, split into paddocks, adjoining agricultural fields to the north and west. To the south is a farm complex (Windmill Farm Conference Centre). To the east are several detached and semi-detached dwellings.

5.2 The Grade II listed buildings Setting Barn and High House are located 50m and 94m to the north and northeast respectively. The Grade II listed buildings Windmill House and Barn are located 70m to the southeast.

5.3 There is some history to the site. Application (ref. 18/01903/CLE) for 'Certificate of Lawfulness under Section 191 of the Town and Country Planning Act 1990 for Certificate of lawful existing use or development under Section 191 of the Town and Country Planning Act 1990 for: 1. Construction and use of all-weather riding arena in accordance with application 07/0863/P/FP 2. Implementation of application 11/1626/P/FP being the change of use of land subject to the application to domestic 3. Use of land for equestrian use for recreational enjoyment' was approved by the Council on 04/03/2019. That application regularised the use of the site.

5.4 Application 19/00115/OUT for 'outline application for four dwellings with access' was refused by the Council on 14/01/2019 for the following reason:

5.5 By reason of the location of development, the proposed four dwellings would not respect the village character and local distinctiveness or form a logical complement to the existing scale and pattern of development and/or the character of the area. Furthermore it is considered that the proposal would involve the loss of an area of open space that makes an important contribution to the character and overall appearance of the area. The proposed development would erode the visual rural appearance of the application site and introduce a more urban character. The proposal is contrary to Policies OS1, OS2, H2 and OS4 of the adopted West Oxfordshire Local Plan and the relevant paragraphs of the NPPF.

5.6 Application 19/00115/OUT was subsequently appealed and that appeal was allowed by the Inspectorate on 12/05/2020, as in part, that the site was considered to be previously developed land. The site therefore has outline consent for four homes.

5.7 The current application is for 'Reserved Matters application for four dwellings (appearance, landscaping, layout and scale), pursuant to outline permission 19/00115/OUT'. Therefore, the principle of development and access arrangements are established and are not the subject of this application.

5.8 The application is before the Committee as the Parish Council have objected.

5.9 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:

Siting, Design, Form and Impact to Designated Heritage Assets;
Highways;
Biodiversity;

Residential Amenities; and
Other Matters

Siting, Design, Form and Impact to Designated Heritage Assets

5.10 Four Grade II listed buildings are within 100m of the site. 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.

5.11 Local Plan Policy EH9 (Historic environment) states 'All development proposals should conserve and/ or enhance the special character, appearance and distinctiveness of West Oxfordshire's historic environment'.

5.12 Local Plan Policy EH11 (Listed Buildings) states 'Proposals for additions or alterations to, or change of use of, a Listed Building (including partial demolition) or for development within the curtilage of, or affecting the setting of, a Listed Building, will be permitted where it can be shown to:

- a. conserve or enhance the special architectural or historic interest of the building's fabric, detailed features, appearance or character and setting;
- b. respect the building's historic curtilage or context or its value within a group and/or its setting, including its historic landscape or townscape context; and
- c. retain the special interest that justifies its designation through appropriate design that is sympathetic both to the Listed Building and its setting and that of any adjacent heritage assets in terms of siting, size, scale, height, alignment, materials and finishes (including colour and texture), design and form'.

5.13 Section 16 (particularly paragraphs 197, 199, 200 and 202) of the National Planning Policy Framework (NPPF) Conserving and enhancing the historic environment are also applicable.

5.14 Policy OS2 states that all development 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; and be compatible with adjoining uses and not have a harmful impact on the amenity of existing occupants.

5.15 Policy OS4 requires new development to respect and where possible enhance the character and quality of the surroundings, and contribute to local distinctiveness

5.16 The existing site contains stables, barn, a manege and an open field. While these features affirm its use as equestrian, as outline consent exists for the development of this site, their removal is not objectionable.

5.17 In terms of the pattern of development in the area. The Inspector highlighted that 'short side roads and cul de sacs leading off Main Street and Mill Lane are features of this part of the village. Bushey Drive forms part of development stretching southwards along the road'. While the development is mostly linear along the western side of the A4095, cul de sacs are an intrinsic part of the built form in the immediate area and the proposed development would reinforce that pattern.

5.18 While the site is quite open and borders agricultural fields to the north and west. It is also bounded by residential development to the east and further residential development and a conference

centre to the south. In that regard, the proposed dwellings would not be isolated and not withstanding that it is considered to be previously developed land, would not encroach into the countryside.

5.19 Moving to the dwellings themselves. These are large 5 bed detached homes set in relatively large plots. Officers raised initial concerns with the double pile and massing of the dwellings. These were subsequently amended to a principal range with twin rear gables, one larger than the other. As noted by the Councils Conservation Officer 'the perpendicular rear wings and the insets are a significant improvement.'

5.20 While these are somewhat large buildings, immediately to the east of the site are three large detached dwellings in relatively large plots (Thistle Dew, Rosedale and Clover Court). Slightly further to the northeast and southeast are further large detached dwellings (Bushey Farm and Bramble Cottage). There are some smaller detached and semi-detached dwellings in various sized plots; however, arguably, the predominant built form in this location is large detached homes in relatively large plots. The proposed development would mirror this development. Of note is that the Grade II listed Setting Barn (located 50m north of the new dwellings at its nearest point) is also a large detached dwelling in a large plot.

5.21 With regard to the proposed materials. While there is a mix of materials in the immediate area, it is predominantly natural stonework under slate or Cotswold stone roofs. The materials proposed are natural stonework elevations under slate tiled roofs. While slate tiled roofs would be acceptable, officers are mindful that a more suitable material could be achieved. As such, a condition is suggested to secure sample tiles prior to works beginning. This will enable officers to secure the optimum material. Samples of the stonework would also be required, again to secure the optimum material. Notwithstanding the sample condition, as high quality natural materials are proposed, officers are satisfied that the proposed dwellings take cues from the character and appearance of the area.

5.22 Notwithstanding that the design, materials and scale of the dwellings are acceptable, owing to the backland location, views of the development would be heavily restricted from the historic core and the Grade II listed buildings Windmill House and Barn to the southeast. As such, the impact of the proposal would be mitigated from most public vantage points in the area. Indeed, as noted by the Councils Conservation Officer 'I don't think that the presence would be that great from Main Street, whilst in longer views from the north and west the development would be seen against existing buildings'. The proposed development therefore would not harm the settings of Windmill House and Barn. While there would be views between the development and the Grade II listed buildings High House and Setting Barn to the north/northeast, these listed buildings are large detached homes constructed of natural materials and set in large plots. The proposed development would mirror this and as such, is not considered to be harmful to the settings of these listed buildings either. For completeness, the proposed development is also not considered be harmful to nearby built form or the character and appearance of the area.

5.23 Officers are satisfied, for the reasons set out, that the proposed development will not harm the settings or significance of the listed buildings, nearby built form, the historic core, the landscape or the character and appearance of the area. As such, the proposal accords with Section 66(1) of the Act, Section 16 of the NPPF and Policies OS2, OS4, EH2, EH9 and EH11 of the Local Plan.

Highways

5.24 Access was considered as part of the outline application and was found to be acceptable. Nonetheless, the dwellings have a safe and suitable access for all users and sufficient parking spaces are

proposed. Furthermore, OCC Highways have not objected to the scheme. The proposal therefore accords with Local Plan Policies T1, T2, T3 and T4; as well as Section 9 of the NPPF (in particular paragraphs 110, 111 and 112).

Biodiversity

5.25 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'.

5.26 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.

5.27 The site is previously developed land and the Inspector found 'there are no trees or hedges of note on the site' and 'the Council has suggested conditions for a scheme of ecological mitigation, integrated bat roosting features, bat friendly lighting and a Landscape and Ecology Management Plan. However, no clear justification has been provided for the conditions. As such these conditions are not necessary and I have not imposed them'.

5.28 The site is poor quality in terms of existing biodiversity. The ecological report confirms that there are no hedgerows of note bordering the site - the southern boundary is comprised of an existing close-boarded fence with over-hanging vegetation and the western boundary is formed by a dry ditch with ruderal vegetation and some occasional young Elder and Hawthorn shrubs. A remnant hedgerow forms part of the northern boundary next to the existing barn.

5.29 Although the site lies within the amber zone of the great crested newt district licensing modelled map, the ecological report confirms that previous surveys of the nearby ponds have not found any evidence of this species. The site is a well-managed paddock and contains limited potentially suitable terrestrial habitat for this protected species.

5.30 As there will be little to no loss of biodiversity, mitigation is not required. However, Local Plan Policy EH3 and Paragraph 174 of the Framework, both seek a net gain in biodiversity without identifying a specific percentage. The Environment Act 2021 has now passed, and 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. While that is the case, the applicant has confirmed that they are willing to accept a landscape condition securing new hedgerows and planting, bat and bird boxes and the creation of gaps beneath close-boarded fencing for hedgehogs. As such, officers consider that these conditions are now justified in the interest of securing biodiversity net gain, albeit nominal. The proposal therefore accords with Policy EH3 and the NPPF in that regard.

Residential Amenities

5.31 Concerns have been raised regarding the amount of built form proposed at the site and the potential for overbearing, overshadowing and loss of light impacts to neighbours. However, the three dwellings to the west of the site are set in large plots and are a suitable distance from neighbours to not result in these impacts. While the dwelling to the east of the plot is quite close to its neighbour to the south, the dwelling is to the north and when considering the path of the sun, overbearing, overshadowing and loss of light impacts are unlikely.

5.32 There are first floor side elevation windows on all of the dwellings. However, these will serve bathrooms and dressing rooms as such will be obscure glazed and will be secured by condition as such. There are no facing windows less than the 22m industry separation distance standard. As such, loss of privacy and overlooking is unlikely.

5.33 Large areas of private amenity space are proposed that are sufficient to serve the new homes.

5.34 There will be an increase in traffic movements in the area. However, only four dwellings are proposed therefore the number of movements would be relatively low and are not considered to result in detrimental noise, vibration or pollution impacts.

5.35 Officers are satisfied, for the reasons outlined, that the proposal will not detrimentally impinge on the residential amenities of the area in regards loss of privacy, or loss of light, overbearing or overshadowing impacts, noise, pollution (including light), odours or vibration. In addition sufficient private external amenity space is proposed for each property.

Other matters

5.36 Officers note the objection comments relating to flood risk/drainage. However, the site is in flood zone I and is therefore at the lowest risk of flooding and the proposal does not meet the requirements for a flood risk assessment. The Council's drainage team have not objected, however they have requested further information relating to drainage matters and have suggested a pre-commencement condition. Following this comment, the applicant has submitted further information and officers are awaiting the comment from our drainage team. Officers consider that this technical issue can be overcome either through the submission of information during this process, or the application of a pre-commencement condition. It may be that this is overcome prior to the application being heard at the April 19th Committee, if that is the case, officers will update Members on the additional representations report. Should that not be the case, officers request that this application be delegated back to officers to overcome this drainage matter.

5.37 The Council's Environmental Regulatory Services Team were consulted. They raised no objection subject to a precautionary contamination condition being applied.

5.38 Officers also note the comments received relating to foul drainage (sewerage) issues in the area. However, the addition of 4 homes is unlikely to detrimentally affect the existing capacity of the foul water sewerage network. There are no objections in regards to foul drainage therefore.

5.39 Concerns have been raised regarding the delivery of new hedgerows. The details and delivery of these will be secured by condition, as such the LPA maintains control over this.

Conclusion

5.40 The recommendation to GRANT permission has been taken having regard to the policies and proposals in the development plan set out above, and to all the relevant material considerations set out in the report.

5.41 However, there are some outstanding technical matters and officers request delegated authority to determine the application subject to no new technical matters being raised and to confirm the final conditions with the Chairman.

6 CONDITION

1 The development shall be commenced within either five years from the date of the outline permission reference 19/00115/OUT (appeal decision dated 12/05/2020); or two years from the date of this approval, or where there are details yet to be approved, within two years from the final approval of those matters.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended.

2 The car parking areas (including where appropriate the marking out of parking spaces) shown on the approved plans shall be constructed before the first occupation of the development hereby approved and thereafter retained and used for no other purpose.

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

3 No dwelling shall be occupied until the parking area and driveways have been surfaced and arrangements made for all surface water to be disposed of within the site curtilage in accordance with details that have been first submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure loose materials and surface water do not encroach onto the adjacent highway to the detriment of road safety.

4 No dwelling shall be occupied until space has been laid out within the curtilage of that dwelling to enable two vehicles to enter, turn round and leave the curtilage in forward gear.

REASON: In the interest of road safety.

5 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 additional windows/rooflights shall be constructed in the side elevation(s) of the building(s) hereby approved.

REASON: To safeguard privacy in the adjacent properties.

6 Prior to the first occupation of the development hereby approved, all of the proposed first floor side elevation windows shall be fitted with obscure glazing (and either non opening or more than 1.7 metres above the floor level) and shall be permanently retained as such thereafter.

REASON: To protect the residential amenities of the occupants of neighbouring dwellings.

7 Before above ground building work commences, a schedule of materials (including samples) to be used in the elevations and roofs 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 and shall be retained as such thereafter.

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

8 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.

REASON: To prevent pollution of the environment in the interests of the amenity and to accord with West Oxfordshire Local Planning Policy EH8 and Section 15 of the NPPF.

9 The garages hereby permitted shall be used for the parking of vehicles and ancillary domestic storage only and shall not be used as additional or independent living accommodation without the prior approval, in writing, of the Local Planning Authority.

REASON: To ensure that adequate car parking facilities are provided in the interests of road safety and to protect the amenity of nearby occupiers.

10 The development hereby permitted shall be completed in accordance with the recommendations in Section 7 of the Preliminary Ecological Assessment report dated 09/12/21 prepared by 4 Acre Ecology Ltd, as submitted with the planning application. All the recommendations shall be implemented in full according to the specified timescales, unless otherwise agreed in writing by the local planning authority.

REASON: To ensure that biodiversity is protected and enhanced 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.

11 Prior to the first occupation of the development hereby approved the following details shall be submitted to the Council for approval:

- a) Type and locations of 4 bat boxes and 4 bird boxes; and
- b) Location of gaps beneath close-boarded fencing for hedgehogs

The approved details shall be implemented in full, prior to the first occupation of the development, unless otherwise agreed in writing by the local planning authority, and shall thereafter be permanently retained and maintained.

REASON: To enhance biodiversity in accordance with Policy EH3 of the West Oxfordshire District Local Plan 2031, paragraphs 174, 179 and 180 of the National Planning Policy Framework and in order for the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006.

12 Before the first occupation of the development hereby approved, a comprehensive landscape scheme shall be submitted to and approved in writing by the Local Planning Authority, including full details of native, species-rich hedgerow planting and any other proposed planting of trees/shrubs. 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.

13 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.

14 Before the first occupation of the development hereby approved, 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.

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.

INFORMATIVES :-

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).

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

- Wall, roof and floor insulation, and ventilation
- High performing triple glazed windows and airtight frames
- Energy efficient appliances and water recycling measures
- 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/>

There is a low risk that great crested newts (GCN) may be present at the application site. However, the application site lies within the amber impact zone as per the modelled district licence map, which indicates that there is moderately 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.

For more information on hedgehog gaps/holes in fences and walls, please visit

<https://www.hedgehogstreet.org/help/hedgehogs/link-your-garden/>

The applicant and their architect should note the advice of Swift Conservation with regard to the installation of the swift bricks available at <https://www.swift-conservation.org/Nestboxes&Attraction.htm#Built%20in>

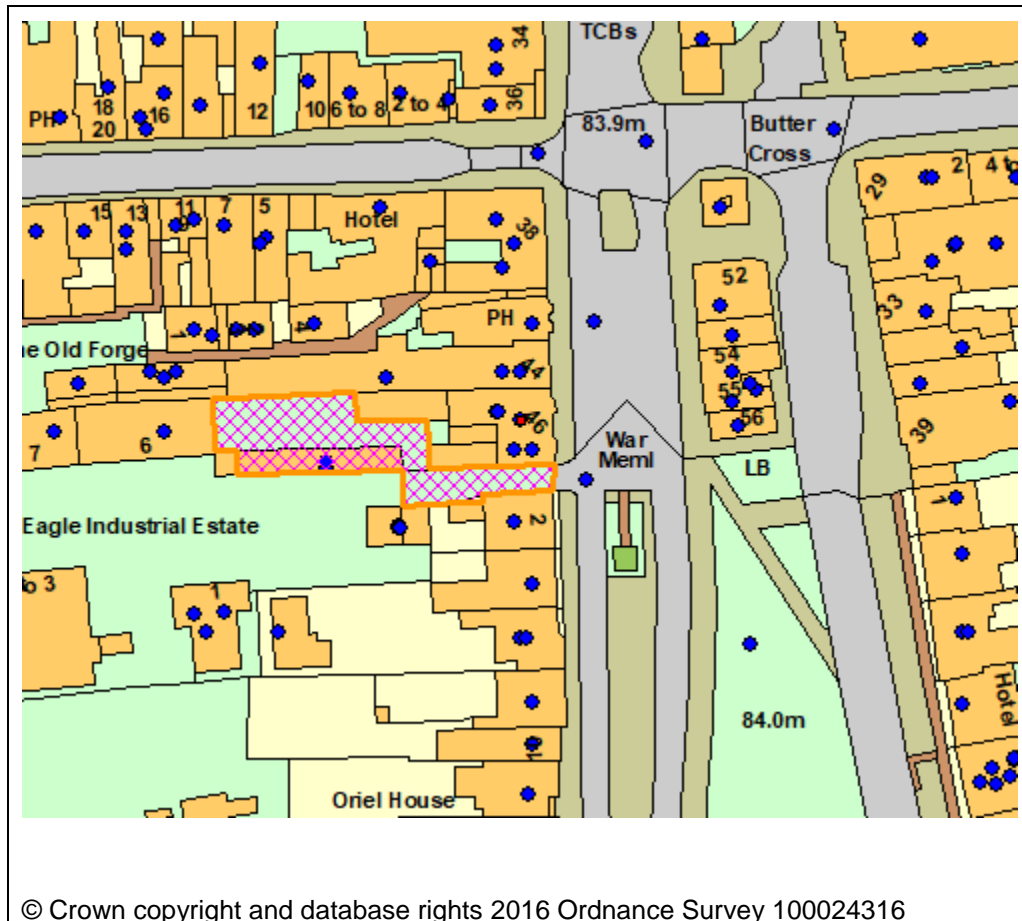
Contact Officer: David Ditchett

Telephone Number: 01993 861649

Date: 5th April 2022

Application Number	21/03643/FUL
Site Address	46 Market Square Witney Oxfordshire OX28 6AL
Date	5th April 2022
Officer	Esther Hill
Officer Recommendations	Refuse
Parish	Witney Parish Council
Grid Reference	435573 E 209531 N
Committee Date	19th April 2022

Location Map



Application Details:

Demolition of existing outbuilding and rebuild to create a one and half storey three bedroom house with associated amenity area and two car parking spaces. (Amended)

Applicant Details:

Mr And Mrs J Druce Harding
15 Mill Meadow
Ducklington
Oxon
OX27 7AY

I CONSULTATIONS

Parish Council

While Witney Town Council does not object to this application in terms of a new dwelling, it notes that Councillors express concern for limited cycle and bin storage on the site. Members ask that all efforts are made to provide cycle storage adequate for a family home and bin storage sufficient for the multiple waste bin types.

OCC Highways

The proposal, if permitted, will not have a significant detrimental impact (in terms of highway safety and convenience) on the adjacent highway network

Recommendation:

Oxfordshire County Council, as the Local Highways Authority, hereby notify the District Planning Authority that they do not object to the granting of planning permission, subject to the following condition

-G28 parking as plan

WODC Env Health - Lowlands

Thank you for the opportunity to consult.

I have No Objection in principle.

A standard condition around a Construction (Demolition) Environmental Management Plan (EMP), would be appropriate under the circumstances.

WODC Drainage Engineers

Additional Details requested.

Conservation Officer

Consultee Comments:

Context: an outbuilding known as Long Barn located to the rear, and within the curtilage of no.46 Market Square - a Grade II listed building (list entry 1213490), located in Witney & Cogges Conservation Area. No. 46 was formerly known as Bull Inn and dates from early-mid C18 with C19 alterations. The Bull Inn stated to be brewery tap to Clinch and Co Brewery, the original owners and occupiers of what is now the Wychwood Brewery.

The building is a long linear free standing building running parallel to and having an unbroken west facing stone wall fronting onto the entrance road into what was formerly an entrance to the Brewery and is now the Eagle Industrial Estate from Market Square.

From the photographs provided, I note that there are still some distinguishable architectural characteristics that relay its significance and context as an outbuilding, possibly cartshed or similar with a historic association to the former Bull Inn. Our OS mapping records show the structure existed at this current location at least from 1875. The outbuilding appears to be a substantial and solid structure that looks to be structurally sound.

In Witney and Cogges Conservation Area Appraisal, it states: 'For centuries, High Street and Market Square have represented the commercial heart of the old town; a long and memorable street of shops giving way to houses at its northern end, whose essential character has remained intact since the Middle Ages...in particular Market Square at the street's southern end - marks the commercial focus of the old town. Historically, the street was lined with a combination of shops, houses and inns - a mix that remains strongly intact. And, Market Square and High Street are primarily defined by their buildings.

Opinion: the outbuilding is still clearly viewed from Market Square (as shown on the image above) and is considered to make a positive contribution to the character, appearance and setting of the principal listed building (inc. curtilage) and the conservation area.

The applicant's heritage statement and justification for demolition of this building is considered to be inadequate, stating that the building: ...'has no damp proof course to the stone walls and little insulation to its walls or floors and would require extensive and substantial works to meet both current Building Regulation requirements and to obtain the requisite Commercial Energy Performance Certificates, and that a new building on the same footprint would achieve an optimum viable use'.

However, there is no evidence submitted to suggest that this historic outbuilding is incapable of conversion, is at risk in its current condition, or incapable of having an optimum viable use in its current status. Furthermore, the building appears to be a substantial and solid structure with no evidence to suggest it is structurally unsound. As evidenced with other listed outbuildings around the District, there are very few that are incapable of being converted.

Therefore, the applicant has not provided sufficient evidence and justification that outweighs the harm to this outbuilding, the

principal listed building and its setting, and appearance and setting of the conservation area

Furthermore, the proposed structure with extension that extends outwards into the current open and characterful courtyard is incongruous and it will not respect the historic curtilage, context and setting of the heritage assets, including its historic townscape context. And, the proposed form and layout of the development will not respect and build on the pre-existing historic character (and building layout).

Notwithstanding, the demolition of this interesting and characterful building represents the loss of a vernacular outbuilding that delineates and provides historic and architectural context to its relationship to former Bull Inn and Brewery. And, its loss would have a deleterious impact, and result in the erosion of the character, appearance and setting of all the heritage assets identified.

Recommendations: Refusal, it does not preserve the character, appearance and setting of the heritage assets identified.

Reasons: Contrary to policies EH9, EH10, EH11, EH13 OS4, NPPF 2021, and WODC Design Guidance and Witney & Cogges Conservation Area Appraisal

WODC Drainage Engineers

No objection subject to a Pre commencement Condition.

2 REPRESENTATIONS

2.1 No representations have been received.

3 APPLICANT'S CASE

3.1 A planning support statement has been submitted which incorporates a Heritage Impact Assessment and Design and Access Statement. This document is available on the Council's website. The statements have been summarised and concluded as follows:

Listed Building Consent and Planning Permission has been submitted for the demolition and rebuilding, in an extended form, of an outbuilding to the rear of 46 Market Street, Witney, to provide a three bedroomed house. The proposal would lead to less than substantial harm to the setting of the listed former Bull Inn, but that the public benefits of the proposal would be to provide a new family house in a highly sustainable location in the centre of Witney and put this part of the curtilage of the listed building, in a modified form, back into an optimum viable use.

4 PLANNING POLICIES

WIT5NE Witney town centre strategy

NPPF 2021
DESGUI West Oxfordshire Design Guide
EH16 Non designated heritage assets
EI NEW Land for employment
NPPF 2021
DESGUI West Oxfordshire Design Guide
OS2NEW Locating development in the right places
OS4NEW High quality design
H2NEW Delivery of new homes
E6NEW Town centres
T4NEW Parking provision
EH3 Biodiversity and Geodiversity
EH8 Environmental protection
EH9 Historic environment
EH10 Conservation Areas
EH11 Listed Buildings
EH13 Historic landscape character
The National Planning Policy framework (NPPF) is also a material planning consideration.

5 PLANNING ASSESSMENT

Background Information and Proposed Development

5.1 The application seeks planning permission for the demolition and rebuilding, in an extended form, of an outbuilding to the rear of 46 Market Street, Witney, to provide a three bedroomed house with associated amenity area and two car parking spaces.

5.2 The application site relates to an outbuilding known as Long Barn located to the rear, and within the curtilage of no.46 Market Square, Witney, a Grade II listed building (list entry 1213490). No. 46 was formerly known as Bull Inn and dates from early-mid C18 with C19 alterations. The Bull Inn stated to be brewery tap to Clinch and Co Brewery, the original owners and occupiers of what is now the Wychwood Brewery. Long Barn is curtilage listed, locally listed and falls within the Witney & Cogges Conservation Area. The building is a long linear free standing building running parallel to the entrance road of the Eagle Industrial Estate from Market Square. The ground floor of 46 Market Square is occupied in part by Church Green Books and by the offices of Dana Care, the upper floors of the building and its attached outbuildings are used as offices. The outbuilding which is the subject of this application has been split into three units and is used for storage, as a workshop and an office.

5.3 Your officers were unable to find any planning history specifically relating to the outbuilding which is the subject of this application. However, from the Heritage Statement provided and the consultation comments received from your Listed Building and Conservation Officers, it is believed that the outbuilding was possibly a cartshed or similar with a historic association to the former Bull Inn and was converted to offices in the late 1970's.

5.4 The application has been brought before Members of the Lowlands Sub Planning Committee as your officers recommendation is contrary to the Town Council.

5.5 Amended drawings have been submitted as part of this application following the Town Councils concerns regarding the lack of cycle and bin storage and following the consultation comments received from the WODC Drainage Officer, who requested additional information.

Proposed Development

5.6 Proposed is to demolish all of the existing single storey barn apart from a small section to the west which is not within the applicants ownership. The stone from the existing walls and the concrete tiles from the roof will be reused to construct a one and half storey 3-bedroom house. The proposed dwelling is to be situated on the footprint of Long Barn and has a cross gable section which extends out across an existing car parking area, the proposed dwelling is 1.55m taller at eaves level and 1.73m taller at ridge level than the existing Long Barn. The proposed dwelling has three high level windows and six roof lights on its southern elevation which faces Eagle Industrial Estate, it has three windows and two doors at ground floor level and two dormer windows, a roof light, and a window at first floor level on its northern elevation. The proposed dwelling also has bi folding doors and a Juliet balcony on its western elevation and two doors and two windows at ground floor level and a dormer window and a window at first floor level on its eastern elevation. The proposed materials are natural stone, clay tiles, double glazed wooden windows and doors and an aluminium bi folding door. The proposed dwelling would also have associated outdoor amenity space in the form of a patio within an enclosed courtyard space. Two parking spaces are proposed and bin and cycle storage.

5.7 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
- Design and Impact on Heritage Assets and the Conservation Area
- Residential Amenity
- Highways

Officers Assessment

Principle

5.8 In regards to the principle of development, locational policy OS2 of the adopted West Oxfordshire Local Plan identifies Witney as a 'Main Service Centre' within the settlement hierarchy. Policy H2 allows in principle for new dwellings in main service centres, 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 the plan.

5.9 As stated within policy H2 the development has to comply with any other relevant policies in the plan. Your Officers consider the relevant policies to be OS2- Locating development in the right places, OS4- High quality design, E1- Land for Employment, E6- Town centres, T4- Parking provision, EH3- Biodiversity and geodiversity, EH8- Environmental protection, EH9 -Historic environment, EH10- Conservation areas, EH11- Listed buildings, EH13 - Historic landscape character and WIT5- Witney Town Centre Strategy.

5.10 As stated within the supporting documents submitted, the last known use for Long Barns is as a workshop, storage and office space. Given its most recent use and that the site is immediately adjacent to and shares access with the Eagle Industrial Estate, your officers are satisfied that whilst it does not fall within the Article 4 Directions of the industrial estate, that the site is categorised as an employment site. Therefore, Policy E1 is relevant when considering this application. Policy E1 states that non-employment uses on employment sites will be refused except in the following circumstances -

- where it can be demonstrated that the site or premises are not reasonably capable of being used or redeveloped for employment purposes; or
- where the site or premises are considered unsuitable on amenity, environmental or highway safety grounds for employment uses; or
- where the proposed use includes community, leisure, or retail uses which are complementary and compatible to the functioning of the employment site and the local community, and conform with Policy E6: Town Centres; or
- where substantial community benefits would be achieved by allowing alternative forms of development.

Your officers do not consider that sufficient information has been provided demonstrating that Long Barn is not capable of being used or redeveloped for employment uses. From the supporting documents submitted as part of this application your officers believe that the applicants argument is that the development will provide a community benefit, as they believe that proposal would secure the optimum viable use of a heritage asset. However, no evidence has been submitted to suggest that this historic outbuilding is incapable of conversion, is at risk in its current condition, or incapable of having an optimum viable use in its current status. Your officers therefore consider this proposal to be contrary to policy E1.

5.11 Additionally, as stated within policy H2 the development has to comply with the general principles of policy OS2 which states that all development 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
- As far as is reasonably possible protect or enhance the local landscape and the setting of the settlement/s;
- 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.

5.12 Your officers are of the opinion that the principle of the proposal does not comply with the general principles set out in Policies OS2 and other relevant policies in this plan. The details of the proposal are assessed against the general principles of Policy OS2, and in detail against the other relevant policies as outlined above, guidance and legislation in the relevant sections below:

Design and Impact on Heritage Assets and the Conservation Area

5.13 Long Barn is a grade II curtilage listed building in association with no.46 Market Square, Witney. There are also listed buildings to the north and the south of Long Barn. This proposal is to demolish Long Barn almost in its entirety. Whilst Long Barn is curtilage listed it should be treated as any other grade II listed building as stated within Paragraph: 044 Reference ID: 18a-044-20190723 of government planning guidance, *all grades of listed building, unless the list entry indicates otherwise, the listing status covers the entire building, internal and external, and may cover objects fixed to it, and also curtilage buildings or other structures.*

5.14 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.

Section 16 of the National Planning Policy Framework (NPPF) states that in determining applications, local planning authorities should take account of the desirability of sustaining or enhancing the significance of heritage assets. In particular, paragraph 199 states that when considering the impact of a proposed development on the significance of a designated heritage asset - such as a Listed Building, or Conservation Area - great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification (paragraph 200). Paragraph 202 states that 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, where appropriate, securing its optimal viable use.

5.15 In order to consider the effect of a scheme on the significance of the listed building, there is a need to identify that significance. In this instance, it is the buildings distinguishable architectural characteristics that relay its significance and context as an outbuilding, possibly cartshed or similar with a historic association to the former Bull Inn, its age, form and prominent location within the conservation area. The outbuilding is clearly viewed from Market Square and is considered to make a positive contribution to the character, appearance and setting of the principal listed building (inc. curtilage) and the conservation area.

5.16 The demolition of this interesting and characterful building would result in the complete loss of a heritage asset. Paragraph 201 of the NPPF states that if a development results in the total loss of significance of a designated heritage asset that the local planning authority should refuse consent, unless it can be demonstrated that the total loss is necessary to achieve substantial public benefits that outweigh that loss. Paragraph 200 states that any loss of a heritage asset should require clear and convincing justification and when the development includes the loss of a listed building the justification should be exceptional. The applicant's heritage statement and justification for demolition of this building is considered to be inadequate, stating that the building 'has no damp proof course to the stone walls and little insulation to its walls or floors and would require extensive and substantial works to meet both current Building Regulation requirements and to obtain the requisite Commercial Energy Performance Certificates, and that a new building on the same footprint would achieve an optimum viable use'. However, there is no evidence submitted to suggest that this historic outbuilding is incapable of conversion, is at risk in its current condition, or incapable of having an optimum viable use in its current status. Furthermore, the building appears to be a substantial and solid structure with no evidence to suggest it is structurally unsound. Therefore, the applicant has not provided sufficient evidence and justification for the proposed development that outweighs the complete loss of this listed building.

5.17 In addition, the loss of a vernacular outbuilding that delineates and provides historic and architectural context to its relationship to former Bull Inn and Brewery will have a harmful impact on the setting of the principal listing building. The proposed dwelling is larger in scale in terms of its footprint, height and volume, its existing linear plan form is also to be changed and the character of the building will be completely lost by the associated domestication such as the additional windows, doors and balcony, as a result of the use change. The proposed extension into the characterful courtyard is incongruous and it will not respect the historic curtilage, context and setting of the heritage assets, including its historic townscape context. The proposed form and layout of the development will not

respect and build on the pre-existing historic character (and building layout). Therefore, the loss of Long Barn would have a deleterious impact, and result in the erosion of the character, appearance and setting of the principal listed building, neighbouring listed buildings and the Conservation Area. The proposal is therefore contrary to policies OS2, OS4, EH10, EH11, EH13 OS4, NPPF 2021, and WODC Design Guidance.

5.18 Notwithstanding the listed status of Long Barn, your officers have concerns with the proposed scale and design of the dwelling. Given the courtyard setting of the proposed dwelling, which has other large buildings within very close proximity, the site is quite constrained in terms of size and its relationship with neighbouring buildings. Your officers have concerns with the proposed scale of the extension into the courtyard in particular, as it is 8m in depth and 7.6m long and appears to be incongruous and cramped in this location. Therefore your officer consider that the proposal is contrary to policy OS4 of the Adopted West Oxfordshire Local Plan.

5.19 Whilst the existing building is curtilage listed, it is also locally listed. Policy EH9 states that when considering proposals that affect, directly or indirectly, the significance of non-designated heritage assets, a balanced judgement will be made having regard to:

- o the scale of any harm or loss;
- o the significance of the heritage asset; and
- o the public benefits of the development. If it is determined through the relevant evidence that currently non-designated buildings, structures, historic landscapes or archaeology are of national significance, those elements of this policy for designated heritage assets will apply.

For the reasons already stated above the proposal is therefore also considered to be contrary to policy EH9 of the Adopted West Oxfordshire Local Plan.

5.20 In terms of the impact on the Conservation Area, local authorities have a legal duty to preserve or enhance and must have regard to section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in respect of any development proposal either preserving or enhancing the character of Conservation Area. Further to this the paragraphs of section 16 'Conserving and enhancing the historic environment' of the NPPF are relevant to consideration of the application. In Witney and Cogges Conservation Area Appraisal, it states: 'For centuries, High Street and Market Square have represented the commercial heart of the old town; a long and memorable street of shops giving way to houses at its northern end, whose essential character has remained intact since the Middle Ages...in particular Market Square at the street's southern end - marks the commercial focus of the old town. Historically, the street was lined with a combination of shops, houses and inns - a mix that remains strongly intact. And, Market Square and High Street are primarily defined by their buildings'.

Long Barn can be clearly viewed from within Market Square and by reason of its traditional character and historic significance your officers consider that it positively contributes to the character and appearance of the Witney and Cogges Conservation Area. This proposal involves the demolition of this characterful building and given the scale and design of the proposed dwelling, officers do not consider that the proposed development would enhance or protect the Conservation Area. As such this proposal would be contrary to the legislation and guidance above and policies EH9, EH10 and EH13 of the Adopted West Oxfordshire Local Plan.

5.21 The proposals in this application will result in the complete loss of a grade II listed building and will cause harm to the significance of the principal listed building and its setting, and the appearance and setting of the conservation area and this harm is identified as being 'less than substantial'. As such, Paragraph 202 of the NPPF directs decision makers to weigh that harm against the public benefits of the

proposal, including, where appropriate, securing its optimum viable use. The building appears to be in a good condition and its ongoing use as an office, workshop and storage space would not be affected by this refusal. Officers note that the proposed development would result in some benefits, these include, minor economic benefits from the construction phase, however these are minor and short term. The main benefit of this proposal is that it would create an additional three bedroom residential dwelling within a sustainable location, which would help with the need for additional housing. However, your officers are satisfied that any public benefits arising from the scheme are outweighed by the total loss of a grade II listed building and the harm caused to the principal listed building and its setting, and the appearance and setting of the conservation area.

For the above reasons it is considered that the scheme would result in the loss of a listed building which would harm the setting of 43 Market Square, the neighbouring listed building and the Conservation Area. The significance of Long Barn as a designated heritage asset would be diminished, and without public benefit that would outweigh the total loss of a listed building and the less than substantial harm caused to the principal listed building and conservation area. The proposal is therefore judged to be contrary to the duty to Sections 66(1) and 72(1) of the Planning (LBCA) Act 1990. It would also fail to meet the requirements of Section 16 of the NPPF, and policies EH10 and EH11 of the Adopted West Oxfordshire Local Plan 2031.

Residential Amenities

5.22 In regards to the impact on neighbouring amenity, this has been carefully assessed. Policy OS2 states that development be compatible with adjoining uses and not have a harmful impact on the amenity of existing occupants. Your officers do have a number of concerns relating to the impact this development would have on residential amenity issues such as loss of light, loss of privacy, overbearing, overlooking and noise and disturbance.

The proposed dwelling is to be situated within very close proximity to commercial and industrial uses, which include buildings forming part of the courtyard, the dwelling will also run parallel with the entrance into an industrial estate. Your officers did have initial concerns with a residential dwelling in this location, given the noise and disturbance impacts which may arise from the adjoining uses, such as vehicular and pedestrian movements and machinery. However, the WODC Pollutions Officer was consulted on this application and raised no objections subject to conditions.

Given that the dwelling is proposed in a courtyard location surrounded by high walls and that a large part of this courtyard is to be filled with the proposed cross gable extension, your officers have concerns that the development would result in an overbearing and enclosed feeling for the future occupiers. It is also arguable that this would also result in insufficient light into the building itself and will provide a poor outlook from the proposed openings therefore providing poor living conditions. There are a number of windows within the neighbouring buildings on the courtyard which would give rise to some harm in terms of overlooking and loss of privacy into the proposed dwelling.

In view of the above, your officers consider that the proposed dwelling would give rise to unacceptable levels of harms in terms of neighbouring amenity issues and is therefore contrary to policies OS2 and OS4 of the adopted West Oxfordshire Local Plan 2031.

Highways

5.23 OCC Highways have been consulted on the application and have raised no objections in regards to highways safety and convenience subject to conditions. However, whilst the proposed parking spaces

meet the guidance set out by OCC Highways, your officers do have some concerns with the practicality of manoeuvring vehicles in such a confined space. However, given the town centre location of the proposed dwelling and the amount of other parking options within the immediate locality, your officers considers the scheme to be acceptable and complies with policy T4 of the West Oxfordshire Local Plan.

Other Matters

5.24 Following the submission of additional documents, the WODC Drainage Officer has not objected to this application subject to pre commencement conditions.

5.25 Witney Town Council have raised no objections to this proposal however, they did request that the provision of cycle and bin storage is provided. Following the Town Councils comments amended drawings have been submitted providing both bin and cycle storage.

5.26 The WODC Pollutions Officer have raised no objection to the proposal subject to a condition requesting that a Construction (Demolition) Environmental Management Plan (EMP) is provided.

5.27 In terms of Biodiversity, a Protected Species Survey Report was submitted as part of this application. Officers note that the report refers to the proposed development as 'conversion and extension to existing building' however the proposal is for the demolition and rebuild. The results of the survey show that no bats or evidence of bats were found and that the barn offered 'negligible' potential to offer shelter to roosting bats. The survey also found no evidence of nesting birds. Bat and bird boxes have been proposed as part of the scheme. Notwithstanding the incorrect development description, given the results of the report officers consider that the proposal would comply with policy EH3 of the Adopted West Oxfordshire Local Plan 2031.

Conclusion

5.28 For the reasons outlined above, the scheme would fail to preserve the curtilage listed building, its features, its significance and the setting of 43 Market Square, the neighbouring listed buildings and the Witney and Cogges Conservation Area. Consequently, the significance of Long Barn as a designated heritage asset would be diminished, and without public benefit that would outweigh the less than substantial harm caused. The proposal is therefore judged to be contrary to the duty to Sections 66(1) and 72(1) of the Planning (LBCA) Act 1990. It would also fail to meet the requirements of Section 16 of the NPPF, and policies EH10 and EH11 of the Adopted West Oxfordshire Local Plan 2031.

5.29 Your officers additionally consider that the proposed development would fail to comply with the provisions of Policies OS2, EH9, EH10, EH11, EH13 OS4, NPPF 2021, and WODC Design Guidance 2016 and Witney & Cogges Conservation Area Appraisal.

5.30 In light of the above, the application is recommended for refusal.

6 REASONS FOR REFUSAL

- 1 The proposal will result in the complete loss of a grade II curtilage listed building and by reason of the proposed demolition of this building and the scale, siting and design of the proposed building, the proposal will cause harm to the significance of the principal listed building its setting and the character and setting of the Witney and Cogges Conservation Area, this harm is identified as being 'less than substantial'. The loss of the heritage asset and the less than substantial harm which would result from the development proposed, would not be outweighed by any discernible public benefits.

Furthermore, no clear or convincing justification has been submitted to demonstrate that the optimal use of the heritage asset is a risk. Consequently, the proposal is contrary to policies OS2, OS4, H2, EH9, EH10, EH11, EH12 and EH16 of the West Oxfordshire Local Plan 2031, Section 16 of the National Planning Policy Framework, Section 14 of the WODC Design Guide 2016, the Witney and Cogges Conservation Area Appraisal and Sections 66(1) and 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990.

- 2 Insufficient information has been provided demonstrating that Long Barn is not capable of being used or redeveloped for employment uses and no substantial community benefits would be achieved by the proposed development, therefore it is contrary to Policy E1 of the West Oxfordshire Local Plan 2031.

- 3 By reason of its scale, siting and design the proposed dwelling will appear cramped and incongruous within this location and would result in a detrimental impact on the residential amenity and living conditions for future occupants. The proposal is therefore considered contrary to Policies OS2, OS4 and H2 of the West Oxfordshire Local Plan 2031, the West Oxfordshire Design Guide, the National Design Guide and the relevant paragraphs of the NPPF 2019.

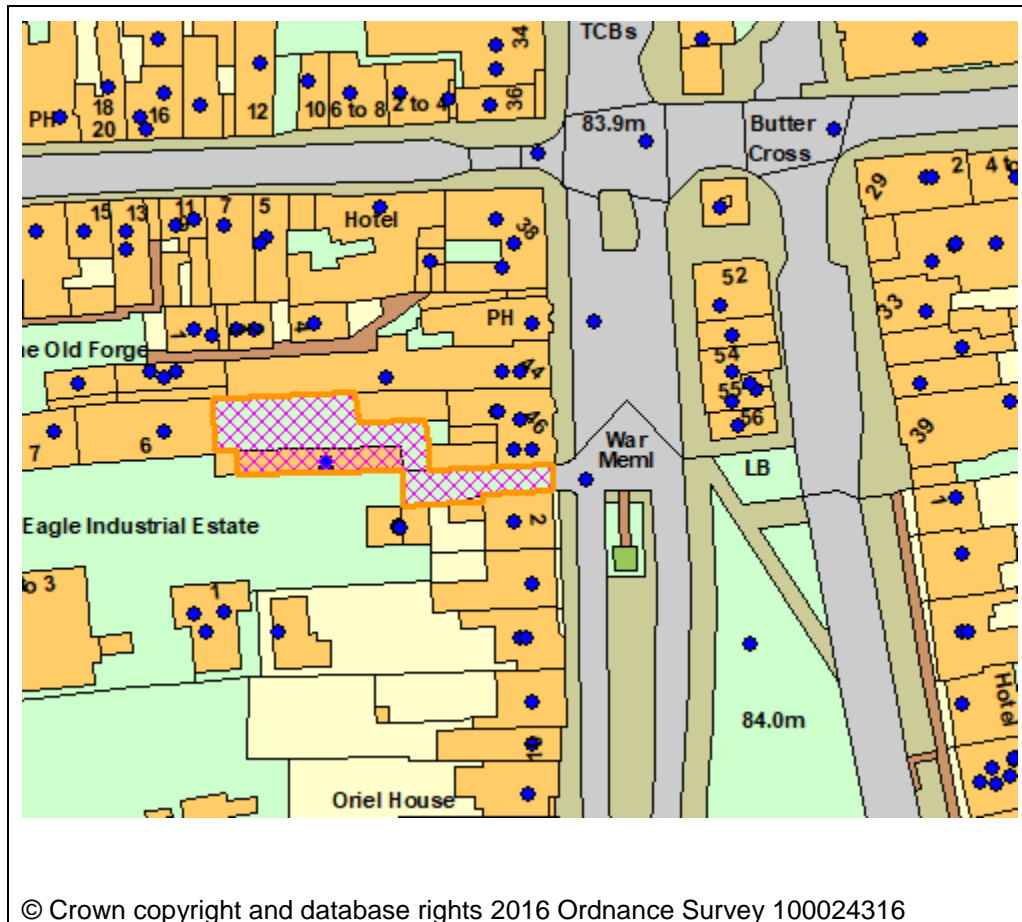
Contact Officer: Esther Hill

Telephone Number: 01993 861690

Date: 5th April 2022

Application Number	21/03644/LBC
Site Address	46 Market Square Witney Oxfordshire OX28 6AL
Date	5th April 2022
Officer	Esther Hill
Officer Recommendations	Refuse
Parish	Witney Parish Council
Grid Reference	435573 E 209531 N
Committee Date	19th April 2022

Location Map



Application Details:

Demolition of existing outbuilding and rebuild to create a one and half storey three bedroom house with associated amenity area and two car parking spaces. (Amended)

Applicant Details:

Mr And Mrs J Druce Harding
15 Mill Meadow
Ducklington
Oxon
OX27 7AY

I CONSULTATIONS

Conservation Officer

Consultee Comments:

Context: an outbuilding known as Long Barn located to the rear, and within the curtilage of no.46 Market Square - a Grade II listed building (list entry 1213490), located in Witney & Cogges Conservation Area. No. 46 was formerly known as Bull Inn and dates from early-mid C18 with C19 alterations. The Bull Inn stated to be brewery tap to Clinch and Co Brewery, the original owners and occupiers of what is now the Wychwood Brewery.

The building is a long linear free standing building running parallel to and having an unbroken west facing stone wall fronting onto the entrance road into what was formerly an entrance to the Brewery and is now the Eagle Industrial Estate from Market Square.

From the photographs provided, I note that there are still some distinguishable architectural characteristics that relay its significance and context as an outbuilding, possibly cartshed or similar with a historic association to the former Bull Inn. Our OS mapping records show the structure existed at this current location at least from 1875. The outbuilding appears to be a substantial and solid structure that looks to be structurally sound.

In Witney and Cogges Conservation Area Appraisal, it states: 'For centuries, High Street and Market Square have represented the commercial heart of the old town; a long and memorable street of shops giving way to houses at its northern end, whose essential character has remained intact since the Middle Ages...in particular Market Square at the street's southern end - marks the commercial focus of the old town. Historically, the street was lined with a combination of shops, houses and inns - a mix that remains strongly intact. And, Market Square and High Street are primarily defined by their buildings.'

Opinion: the outbuilding is still clearly viewed from Market Square (as shown on the image above) and is considered to make a positive contribution to the character, appearance and setting of the principal listed building (inc. curtilage) and the conservation area.

The applicant's heritage statement and justification for demolition of this building is considered to be inadequate, stating that the building: ...'has no damp proof course to the stone walls and little insulation to its walls or floors and would require extensive and substantial works to meet both current Building Regulation requirements and to obtain the requisite Commercial Energy Performance Certificates, and that a new building on the same footprint would achieve an optimum viable use'.

However, there is no evidence submitted to suggest that this historic outbuilding is incapable of conversion, is at risk in its current condition, or incapable of having an optimum viable use in its current status. Furthermore, the building appears to be a substantial and solid structure with no evidence to suggest it is structurally unsound. As evidenced with other listed outbuildings around the District, there are very few that are incapable of being converted.

Therefore, the applicant has not provided sufficient evidence and justification that outweighs the harm to this outbuilding, the principal listed building and its setting, and appearance and setting of the conservation area

Furthermore, the proposed structure with extension that extends outwards into the current open and characterful courtyard is incongruous and it will not respect the historic curtilage, context and setting of the heritage assets, including its historic townscape context. And, the proposed form and layout of the development will not respect and build on the pre-existing historic character (and building layout).

Notwithstanding, the demolition of this interesting and characterful building represents the loss of a vernacular outbuilding that delineates and provides historic and architectural context to its relationship to former Bull Inn and Brewery. And, its loss would have a deleterious impact, and result in the erosion of the character, appearance and setting of all the heritage assets identified.

Recommendations: Refusal, it does not preserve the character, appearance and setting of the heritage assets identified.

Reasons: Contrary to policies EH9, EH10, EH11, EH13 OS4, NPPF 2021, and WODC Design Guidance and Witney & Cogges Conservation Area Appraisal

Parish Council

While Witney Town Council does not object to this application in terms of a new dwelling, it notes that Councillors express concern for limited cycle and bin storage on the site. Members ask that all efforts are made to provide cycle storage adequate for a family home and bin storage sufficient for the multiple waste bin types.

2 REPRESENTATIONS

2.1 No representations have been received.

3 APPLICANT'S CASE

3.1 A planning support statement has been submitted which incorporates a Heritage Impact Assessment and Design and Access Statement. This document is available on the Council's website. The statements have been summarised and concluded as follows:

Listed Building Consent and Planning Permission has been submitted for the demolition and rebuilding, in an extended form, of an outbuilding to the rear of 46 Market Street, Witney, to provide a three bedroomed house. The proposal would lead to less than substantial harm to the setting of the listed former Bull Inn, but that the public benefits of the proposal would be to provide a new family house in a highly sustainable location in the centre of Witney and put this part of the curtilage of the listed building, in a modified form, back into an optimum viable use.

4 PLANNING POLICIES

NPPF 2021

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

5 PLANNING ASSESSMENT

Background Information and Proposed Development

5.1 The application seeks listed building consent for the demolition and rebuilding, in an extended form, of an outbuilding to the rear of 46 Market Street, Witney, to provide a three bed roomed house with associated amenity area and two car parking spaces.

5.2 The application site relates to an outbuilding known as Long Barn located to the rear, and within the curtilage of no.46 Market Square, Witney, a Grade II listed building (list entry 1213490). No. 46 was formerly known as Bull Inn and dates from early-mid C18 with C19 alterations. The Bull Inn stated to be brewery tap to Clinch and Co Brewery, the original owners and occupiers of what is now the Wychwood Brewery. Long Barn is curtilage listed, locally listed and falls within the Witney & Cogges Conservation Area. The building is a long linear free standing building running parallel to the entrance road of the Eagle Industrial Estate from Market Square. The ground floor of 46 Market Square is occupied in part by Church Green Books and by the offices of Dana Care, the upper floors of the building and its attached outbuildings are used as offices. The outbuilding which is the subject of this application has been split into three units and is used for storage, as a workshop and an office.

5.3 Your officers were unable to find any planning history specifically relating to the outbuilding which is the subject of this application. However, the from the Heritage Statement provided and the consultation comments received from your Listed Building and Conservation Officers, it is believed that the outbuilding was possibly a cartshed or similar with a historic association to the former Bull Inn and was converted to offices in the late 1970's.

5.4 The application has been brought before Members of the Lowlands Sub Planning Committee as your officers recommendation is contrary to the Town Council.

5.5 Amended drawings have been submitted as part of this application following the Town Councils concerns regarding the lack of cycle and bin storage.

Proposed Development

5.6 Proposed is to demolish all of the existing single storey barn apart from a small section to the west which is not within the applicants ownership. The stone from the existing walls and the concrete tiles from the roof will be reused to construct a one and half storey 3-bedroom house. The proposed dwelling is to be situated on the footprint of Long Barn and has a cross gable section which extends out across an existing car parking area, the proposed dwelling is 1.55m taller at eaves level and 1.73m taller at ridge level than the existing Long Barn. The proposed dwelling has three high level windows and six roof lights on its southern elevation which faces Eagle Industrial Estate, it has three windows and two doors at ground floor level and two dormer windows, a roof light, and a window at first floor level on its northern elevation. The proposed dwelling also has bi folding doors and a Juliet balcony on its western elevation and two doors and two windows at ground floor level and a dormer window and a window at first floor level on its eastern elevation. The proposed materials are natural stone, clay tiles, double glazed wooden windows and doors and an aluminium bi folding door. The proposed dwelling would also have associated outdoor amenity space in the form of a patio within an enclosed courtyard space. Two parking spaces are proposed and bin and cycle storage.

5.7 The considerations of this application are the impacts that the proposed development will have on Heritage Assets.

Design and Impact on Heritage Assets

5.8 Long Barn is a grade II curtilage listed building in association with no.46 Market Square, Witney. There are also listed buildings to the north and the south of Long Barn. This proposal is to demolish Long Barn almost in its entirety. Whilst Long Barn is curtilage listed it should be treated as any other grade II listed building as stated within Paragraph: 044 Reference ID: 18a-044-20190723 of government planning guidance, *all grades of listed building, unless the list entry indicates otherwise, the listing status covers the entire building, internal and external, and may cover objects fixed to it, and also curtilage buildings or other structures.*

5.9 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 16(2) of the Planning (Listed Building and Conservation Areas) Act 1990.

Section 16 of the National Planning Policy Framework (NPPF) states that in determining applications, local planning authorities should take account of the desirability of sustaining or enhancing the significance of heritage assets. In particular, paragraph 199 states that when considering the impact of a

proposed development on the significance of a designated heritage asset - such as a Listed Building, or Conservation Area - great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification (paragraph 200). Paragraph 202 states that 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, where appropriate, securing its optimum viable use.

5.10 In order to consider the effect of a scheme on the significance of the listed building, there is a need to identify that significance. In this instance, it is the building's distinguishable architectural characteristics that relay its significance and context as an outbuilding, possibly cartshed or similar with a historic association to the former Bull Inn, its age, form and prominent location within the conservation area.

5.11 The demolition of this interesting and characterful building would result in the complete loss of a heritage asset. Paragraph 201 of the NPPF states that if a development results in the total loss of significance of a designated heritage asset that the local planning authority should refuse consent, unless it can be demonstrated that the total loss is necessary to achieve substantial public benefits that outweigh that loss. Paragraph 200 states that any loss of a heritage asset should require clear and convincing justification and when the development includes the loss of a listed building the justification should be exceptional. The applicant's heritage statement and justification for demolition of this building is considered to be inadequate, stating that the building: 'has no damp proof course to the stone walls and little insulation to its walls or floors and would require extensive and substantial works to meet both current Building Regulation requirements and to obtain the requisite Commercial Energy Performance Certificates, and that a new building on the same footprint would achieve an optimum viable use'. However, there is no evidence submitted to suggest that this historic outbuilding is incapable of conversion, is at risk in its current condition, or incapable of having an optimum viable use in its current status. Furthermore, the building appears to be a substantial and solid structure with no evidence to suggest it is structurally unsound. Therefore, the applicant has not provided sufficient evidence and justification for the proposed development that outweighs the complete loss of this listed building.

5.12 In addition, the loss of a vernacular outbuilding that delineates and provides historic and architectural context to its relationship to former Bull Inn and Brewery will have a harmful impact on the setting of the principal listing building. The proposed dwelling is larger in scale in terms of its footprint, height and volume, its existing linear plan form is also to be changed and the character of the building will be completely lost by the associated domestication such as the additional windows, doors and balcony, as a result of the use change. The proposed extension into the characterful courtyard is incongruous and it will not respect the historic curtilage, context and setting of the heritage assets, including its historic townscape context. The proposed form and layout of the development will not respect and build on the pre-existing historic character (and building layout). Therefore, the loss of Long Barn would have a deleterious impact, and result in the erosion of the character, appearance and setting of the principal listed building and neighbouring listed buildings.

5.13 The proposals in this application will result in the complete loss of a grade II listed building and will cause harm to the significance of the principal listed building and its setting, this harm is identified as being 'less than substantial'. As such, Paragraph 202 of the NPPF directs decision makers to weigh that harm against the public benefits of the proposal, including, where appropriate, securing its optimum viable use. The building appears to be in a good condition and its ongoing use as an office, workshop and storage space would not be affected by this refusal. Officers note that the proposed development would

result in some benefits, these include, minor economic benefits from the construction phase, however these are minor and short term. The main benefit of this proposal is that it would create an additional three bedroom residential dwelling within a sustainable location, which would help with the need for additional housing. However, your officers are satisfied that any public benefits arising from the scheme are outweighed by the total loss of a grade II listed building and the harm caused to the appearance and setting of the principal listed building.

For the above reasons it is considered that the scheme would result in the loss of a listed building which would harm the setting of 43 Market Square and the neighbouring listed buildings. The significance of Long Barn as a designated heritage asset would be diminished, and without public benefit that would outweigh the total loss of a listed building and the less than substantial harm caused to the principal listed building. The proposal is therefore judged to be contrary to the duty to Section 16 of the NPPF and Section 16(2) of the Planning (Listed Building and Conservation Areas) Act 1990.

Conclusion

5.14 For the reasons outlined above, the scheme would fail to preserve the curtilage listed building, its features, its significance and the setting of 43 Market Square and the neighbouring listed buildings. Consequently, the significance of Long Barn as a designated heritage asset would be diminished, and without public benefit that would outweigh the less than substantial harm caused. The proposal is therefore judged to be contrary to the duty to Section 16 of the NPPF and Section 16(2) of the Planning (Listed Building and Conservation Areas) Act 1990.

5.15 In light of the above, the application is recommended for refusal.

6 REASONS FOR REFUSAL

- 1 The proposal will result in the complete loss of a grade II curtilage listed building and by reason of the proposed demolition of this building and the scale, siting and design of the proposed building, the proposal will cause harm to the significance of the principal listed building and its setting, this harm is identified as being 'less than substantial'. The loss of the heritage asset and the less than substantial harm which would result from the development proposed, would not be outweighed by any discernible public benefits. Furthermore, no clear or convincing justification has been submitted to demonstrate that the optimal use of the heritage asset is a risk. Consequently, the proposal is contrary to the duty to Section 16(2) of the Planning (Listed Building and Conservation Areas) Act 1990 and Section 16 of the NPPF.

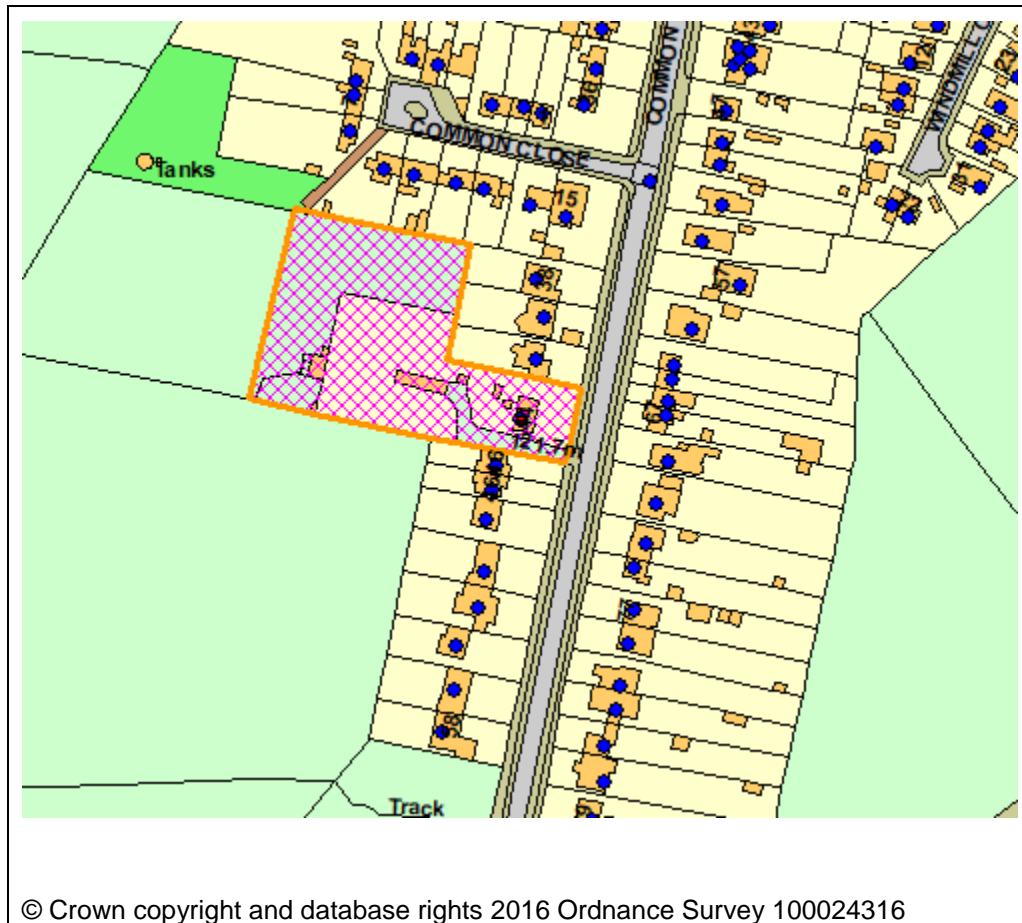
Contact Officer: Esther Hill

Telephone Number: 01993 861690

Date: 5th April 2022

Application Number	21/03720/FUL
Site Address	44 Common Road North Leigh Witney Oxfordshire OX29 6RB
Date	5th April 2022
Officer	David Ditchett
Officer Recommendations	Provisional Approval
Parish	North Leigh Parish Council
Grid Reference	438532 E 212493 N
Committee Date	19th April 2022

Location Map



Application Details:

Demolition of existing residential property. The erection of 10 detached and semi detached two storey dwellings and construction of a new access onto Common Road, with associated garaging and parking, landscaping and all enabling works

Applicant Details:

Mr Tim Northey
Market House
Silver Street
Olney
MK46 4AL

I CONSULTATIONS

Parish Council

The applicant argues that objections raised against previously refused application 21/02900/FUL have been fully met. This is not the case.

Housing developments totalling 175 units have been or are being erected in North Leigh village, thus satisfying the need for housing in this medium sized village. The proposal is for a further 10 units and will further impact on village facilities and harm the character of the area. This is contrary to Policy OS2 of the Local Plan. 2031.

The proposed density of units at 20 per hectare may be appropriate for urban developments, but is inappropriate for and harmful to the character of the village. This is contrary to Policy OS4 of the Local Plan.

Whilst the new proposal now includes 2 affordable units, the mix of units consists eight 3-bed units and two 4-bed units and does not include any 2-bed units. This is contrary to Policy H4 of the Local Plan.

During 2021 numerous problems with foul water and sewage leakages have occurred on Common Road close to the proposed site resulting in emergency call-out of Thames Water repair crews. The applicant has not consulted Thames Water and has not drawn up an appropriate foul water drainage plan. This is contrary OS4 of the Local Plan.

Should the application be approved and without prejudice to our objections, the Parish Council require the following conditions to be attached;

- a) demolition and construction equipment and vehicles shall be used and parked only on the site to avoid damage to and obstruction of that part of Common Road
- b) all vehicles leaving the site to be subject to fully automated wheel washing facilities to prevent mud and construction debris being carried on to Common Road.

Also, without prejudice to our objections and pending the introduction of the Community Infrastructure Levy (CIL), the Parish

Council require the following compensation in mitigation of the social impact of the development on the village;

- a) the A4095/Common Road junction verges to be landscaped in consultation with the Parish Council and maintained by the applicant for a period of 25 years.
- b) a financial contribution be made to a new cycle track between Common Road and Park Road junctions of the A4095
- c) an appropriate traffic calming scheme be installed on Common Road.

WODC Housing Enabler

22.02.2022

Having had the opportunity to review the revised application I am able to make comments from an affordable housing point of view.

Policy H3 in the West Oxfordshire District Council Local Plan 2018 requires housing schemes of 11 or more units or which have a maximum combined gross floor space of more than 1000m² to provide affordable housing on site.

North Leigh is in the medium value zone. The on-site requirement for affordable housing on schemes in the medium value zone is 40%.

The proposed development has a combined gross floor space including garages of more than 1000m² (including netting off the existing bungalow to be demolished) and should therefore be required to provide 40% affordable housing in accordance with Policy H3.

WODC - Sports

No Comment Received.

WODC Planning Policy
Manager

No Comment Received.

Major Planning Applications
Team

17.12.2021

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

Highways - no objection subject to

- S106 Contributions
- An obligation to enter into a [S278] [/S38] agreement
- Planning Conditions
- Informatives

Lead Local Flood Authority - objects

- drainage strategy proposed must be in line with latest national and local guidance

- detailed surface water management strategy must be submitted in accordance with the Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire

District Ecologist

No objection subject to conditions and informatives

Thames Water

Waste Comments

We would expect the developer to demonstrate what measures will be undertaken to minimise groundwater discharges into the public sewer. Groundwater discharges typically result from construction site dewatering, deep excavations, basement infiltration, borehole installation, testing and site remediation. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. Should the Local Planning Authority be minded to approve the planning application, Thames Water would like the following informative attached to the planning permission: "A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 020 3577 9483 or by emailing trade.effluent@thameswater.co.uk. Application forms should be completed on line via www.thameswater.co.uk. Please refer to the Wholesale; Business customers; Groundwater discharges section.

With regard to SURFACE WATER drainage, Thames Water would advise that if the developer follows the sequential approach to the disposal of surface water we would have no objection. Management of surface water from new developments should follow guidance under sections 167 & 168 in the National Planning Policy Framework. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Should you require further information please refer to our website. <https://developers.thameswater.co.uk/Developing-a-large-site/Apply-and-pay-for-services/Wastewater-services>.

Thames Water would advise that with regard to WASTE WATER NETWORK and SEWAGE TREATMENT WORKS infrastructure capacity, we would not have any objection to the above planning application, based on the information provided.

Water Comments

If you are planning on using mains water for construction purposes, it's important you let Thames Water know before you start using it, to avoid potential fines for improper usage. More information and how to apply can be found online at thameswater.co.uk/buildingwater.

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.

Conservation Officer

No Comment Received.

Wychwood Project

No Comment Received.

ERS Env. Consultation Sites

06.12.2021

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

Please consider adding the following condition to any grant of permission.

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.

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

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

WODC Env Health - Lowlands 14.12.2021

Thank you for the opportunity to consult.

I have reviewed the application and I, do not consider road traffic noise to be a constraint for this site.

The Design and Build of the new dwellings should fully satisfy the Internal room sound levels for comfort as prescribed by British Standards 8233:2014 Guidance on Sound Insulation and Noise Reduction for Buildings.

I would suggest the following conditions:-

1. The dwellings hereby approved shall be designed and constructed to incorporate measures to ensure that as a minimum, they achieve the internal and external ambient noise levels contained in British Standard 8233:2014 Guidance for Sound Insulation and Noise Reduction for Buildings (or later versions).

2. Prior to work commencing on the site, an Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Environmental Management Plan shall include the following details:

- ' Development contacts, roles and responsibilities
- ' Public communication strategy, including a complaints procedure.
- ' Dust suppression, mitigation and avoidance measures.
- ' Noise reduction measures, including use of acoustic screens and enclosures, the type of equipment to be used and their hours of operation.
- ' Use of fences and barriers to protect adjacent land, properties, footpaths and highways.
- ' Details of parking and traffic management measures.
- ' Avoidance of light spill and glare from any floodlighting and security lighting installed.
- ' Wheel washing facilities

Informative:-

The Acoustics Ventilation and Overheating Residential Design Guide. Version 1.0 (Jan 2020) provides current additional valuable guidance.

OCC Lead Local Flood Authority

10.03.2022

Objects - technical reasons set out in online comment

OCC Lead Local Flood Authority

07.02.2022

Objection - Generally we don't have an objection to the SuDS design principles. However, additional and corrected information should be provided for the LLFA to be able to fully review.

WODC Housing Enabler

04.04.2022

Information from our choice based lettings system for those qualifying to rent affordable housing and indicating North Leigh as one of their areas of preference.

Applicants can identify up to three locations when selecting their areas of preference.

1 Bed single	49
1 Bed Couple	13
2 Bed	41
3 Bed	11
4+ Bed	5
Total	119

The Homeseeker + priority bandings that these 119 applicants fall under are as follows:

Emergency	0
Gold	1
Silver	22
Bronze	96
Total	119

These bands are broadly explained as:

Emergency = Is in immediate need of re-housing on medical grounds or down-sizing etc

Gold = Has an urgent medical / welfare need / move due major overcrowding etc

Silver = Significant medical or welfare needs that would be alleviated by a move

Bronze = All other applicants not falling into the above categories

In addition to these 119 applicants there are a further 2426 applicants on the wider district waiting list that could benefit from the development of affordable housing.

ERS Env. Consultation Sites

18.01.2022

I am just going through some of the planning applications on the planning portal and have seen the above referenced application. I think that my colleague may have responded to the "ERS Env. Consultation Sites" consultation which is for contamination in error.

I see that this application is similar to a previous application (21/02900/FUL) for which I submitted the following comments. These comments remain applicable for the new application.

Thank you for consulting our team. I have considered the application in relation to contaminated land and potential risk to human health. From the information submitted with the application it is understood that the development site currently comprises a road, single story dwelling, associated garden area including a number of outbuildings and a paddock with more outbuildings. Photographs of the site suggest there may be some areas where rubbish has been piled up. I have no major concerns in relation to the proposed development and the site, however, given the number of outbuildings and the piles of rubbish on site please could the applicant confirm the following;

- That no fuels or other potentially contaminating substances have been stored at the site.
- That the rubbish piles on site have been placed there by the owner of the site and are not fly tipped material. If the piles have been placed by the owner please could they confirm that there are no potentially contaminating substances within the stockpile. For example asbestos containing material, drums of fuel or batteries.

Depending on the answers to these questions I would likely request the following condition be added to any grant of permission.

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.

2. Reason: To prevent pollution of the environment in the interests of the amenity. Relevant Policies: West Oxfordshire Local Planning Policy EH8 and Section 15 of the NPPF

ERS Env. Consultation Sites

24.01.2022

I have received the email below from the applicant and based on the information they have provided request that the following condition be added to any grant of permission.

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.

Reason: To prevent pollution of the environment in the interests of the amenity. Relevant Policies: West Oxfordshire Local Planning Policy EH8 and Section 15 of the NPPF

2 REPRESENTATIONS

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

42 third party objections received relating to:

1. Same as previous application that was refused;
2. Houses close to No 46 Common Road;
3. No need for homes;
4. 176 houses approved for development in the village in the last 2 or 3 years;
5. Increase traffic congestion;
6. Isolated from services and facilities;
7. Loss of local services;
8. Loss of biodiversity;
9. Pressure on water system;
10. Challenge existing infrastructure;
11. Impact to residential amenity;
12. Too many houses already being built in the village;
13. Overdevelopment;
14. Poor quality homes;
15. Out of character;
16. Increase traffic speeding;
17. School at capacity;
18. Lack of site notice;
19. North Leigh needs to remain a smaller town;
20. Inadequate sewer system;
21. Thames Water often visit area to fix issues;
22. Drainage;
23. Existing services are stretched;
24. Highway safety, especially at school times;
25. Impact to local wildlife;
26. No affordable housing;

27. Not an allocated housing site;
28. Overbearing;
29. harm the character and appearance of the village;
30. Power outages;
31. Loss of green field;
32. Development should be on a brownfield site;
33. No social benefits;
34. Design, scale, form and layout of the proposal would not complement the existing pattern and character of the houses down the road;
35. The close proximity of plots 1, 3 and 10 to existing houses is overbearing and will harm the enjoyment of their gardens and privacy in their homes;
36. Reliant on cars;
37. Traffic noise and pollution for No 42;
38. Loss of trees and hedges;
39. Impact to amphibians;
40. Water system cannot cope with more houses;
41. Landscape harm;
42. Flooding;
43. Village is overpopulated;
44. Pollution;
45. Risk to pedestrians;
46. Impact to birds roosting;
47. Impact of building work;
48. Loss of privacy;
49. Poor parking provision;
50. Outlook from side window blocked;
51. Not previously developed land;
52. Excessive density;
53. Design;
54. Scale;
55. Trees felled on site; and
56. Not sustainable development.

3 APPLICANT'S CASE

3.1 The supporting Planning Statement summarises their case as follows:

3.2 The application site mainly comprises previously developed land within North Leigh where the principle of residential development is already established, with the remaining land area undeveloped land immediately adjoining the settlement edge. It is sustainably located as has been established in a number of recent significant planning decisions at the village.

3.3 This revised application has fully considered the previous reasons for refusal with updated and additional supporting information to address these concerns. This includes a LVTN which robustly demonstrates that the application forms a logical development that can be integrated without significant harm to the character and appearance of the area.

3.4 This high quality residential development will make more efficient use of a previously developed land resource and increase housing supply in an area with a significant housing affordability issue. It will

also deliver a number of new 3 bed properties including affordable units, which are identified by the Council as the type of housing in greatest need in the district.

3.5 The applicant has also identified a housing land supply deficit in the district as a number of identified sites will clearly not be delivered within the 5 year period claimed by the Council. Consequently, the provisions of Paragraph 11(d) are triggered meaning the Council's housing policies are considered out of date and the 'tilted balance' applies.

3.6 In weighing up this application, paragraph 8 of the NPPF refers to three mutually dependent dimensions of sustainable development: economic, social and environmental. In terms of its identifiable benefits, the construction of the proposed houses will provide a source of employment in the short term which is important at this time of needing to increase economic activity. Once built, the resultant increase in population will serve to increase the level of expenditure in the local economy helping with the vitality of local services. These economic benefits will be of modest positive weight.

3.7 The proposal will make a contribution towards boosting the supply of housing in an area with a significant housing affordability issue, including smaller family housing for which there is a very significant need in the district. It will also provide much needed affordable housing. Significant positive weight should be attributed to these social benefits.

3.8 If permitted, this proposal will involve the more efficient use of a previously developed land resource and reduce the need for land release elsewhere in the district of higher environmental quality. The implementation of the proposed soft landscape proposals and integrated new habitat opportunities, plus offsite contribution to secure a biodiversity net gain, will deliver environmental benefits from the development. These environmental benefits will be of modest positive weight and creating greater biodiversity.

3.9 The loss of a limited area of agricultural land will be of modest negative weight, when combined with the change in character of this part of the site. However, the site is of no recognised landscape quality and there are no public views into or out of this part of the site, ensuring no discernible impact upon the character of the area.

3.10 In conclusion, the limited adverse impact of the proposal would not significantly or demonstrably outweigh the benefits when assessed against the policies of the framework as a whole. The tilted balance applies in this instance and the planning balance favours a grant of planning permission without further delay.

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

EH7 Flood risk

EH8 Environmental protection

T1NEW Sustainable transport

T2NEW Highway improvement schemes

T3NEW Public transport, walking and cycling

T4NEW Parking provision

DESGUI West Oxfordshire Design Guide

NPPF 2021

NATDES National Design Guide

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

PLANNING ASSESSMENT

5.1 The applicant seeks planning permission for the demolition of existing residential property. The erection of 10 detached and semi detached two storey dwellings and construction of a new access onto Common Road, with associated garaging and parking, landscaping and all enabling works.

5.2 The site is accessed by an existing access serving the domestic curtilage and beyond into the paddock to the rear of the site. There are a number of outbuildings which appear to have been associated with the dwelling, albeit not within an established domestic curtilage.

5.3 An application for the construction of five detached dwellings and garages. Close existing and formation of new vehicular access in revised position was refused permission in November 2018 (Ref: 18/02932/FUL) for the following reasons:

1. The proposal is for housing development on a predominantly greenfield site on the edge of the settlement of North Leigh. The development is not required to meet Local Plan housing requirements and would not constitute an acceptable windfall opportunity in the context of the location, site characteristics, and a very low 5 year windfall allowance. The design (including materials), scale, form and siting of the proposal would not form a logical complement to the existing scale and pattern of development in this location, it would fail to protect or enhance the local landscape and the setting of the village, and would fail to conserve the natural environment. There would therefore be an unacceptably harmful impact on the character and appearance of the area. There are no material considerations that indicate that the development plan should not be followed. The proposal is thus contrary to West Oxfordshire Local Plan 2031 Policies H2, EH2, OS2 and OS4, and paragraphs 12, 127, and 170 of the NPPF.

2. By reason of the siting of plots 4 and 5 in particular, close to the boundaries with existing properties, the proposed dwellings will appear overbearing and result in overlooking from the first floor of Plot 4 and the ground floor of Plots, 1, 2, 4 and 5 and the access road due to insufficient boundary treatment to the detriment of the residential amenity of the adjacent occupiers. As such, the proposal is considered contrary to adopted West Oxfordshire Local Plan Policies OS2, H2 and OS4, and the relevant paragraphs of the NPPF.

5.4 A further application (ref. 20/02900/FUL) was refused in March 2021 for the following reasons:

1. The proposal is for housing development on a predominantly greenfield site on the edge of the settlement of North Leigh. The development is not required to meet Local Plan housing requirements and would not constitute an acceptable windfall opportunity in the context of the location and site characteristics. The design, scale, form and layout of the proposal would not form a logical complement to the existing scale, pattern and character of development in this location, it would fail to protect or enhance the local landscape and the setting of the village,

and would fail to conserve the natural environment. There would therefore be an unacceptably harmful impact on the character and appearance of the area. There are no material considerations that indicate that the development plan should not be followed. The proposal is thus contrary to West Oxfordshire Local Plan 2031 Policies H2, EH2, OS2 and OS4, West Oxfordshire Design Guide, National Design Guide and the NPPF.

2. The proposed development fails to provide affordable housing and a mix of property types and sizes in conflict with Policies H3 and H4 of the West Oxfordshire Local Plan 2031, National Design Guide and the NPPF.

3. The proposed development fails to provide an acceptable SuDS solution in line with Local and National Standards and water quality standards are not met. In addition no water quality assessment has been carried out. As such the proposed development conflicts with Policies EH7 and EH8 of the West Oxfordshire Local Plan 2031 and the NPPF.

4. There is inadequate information relating to biodiversity net gain (BNG) and the proposal fails to demonstrate that a BNG can be provided on site. As such the proposal is contrary to Local Plan policy EH3 and the NPPF.

5. The applicant has not entered into a legal agreement to secure a contribution towards necessary infrastructure including sports and recreation and play facilities, highway works and improved public transport required to offset the burden on local infrastructure that would otherwise result from the proposed development. The local planning authority cannot therefore be satisfied that the impacts of the development can be made acceptable. Consequently, the proposal conflicts with Policies OS5 and T3 of the West Oxfordshire Local Plan 2031 and the NPPF.

5.5 The adopted West Oxfordshire Local Plan identifies North Leigh as a Village wherein new development is acceptable in certain circumstances. The site is part existing bungalow set in its domestic curtilage and part undeveloped paddock area and agricultural field.

5.6 The site is bounded to the north by the rear gardens of properties fronting Common Close and the rear gardens of Nos 38, 40 and 42 Common Road forming the eastern boundary.

5.7 The site is not within the Cotswolds AONB, Conservation Area or any other designated area.

5.8 The site is wholly within flood zone 1.

5.9 The application is before Committee as the Parish Council have objected to the proposal.

5.10 Taking into account planning policy, previous applications, 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 and Form;

Highway Safety;

Drainage and Flood Risk;

Trees and Ecology;

Residential Amenities;

SI06 matters; and

Conclusion (including previous refusal reasons) and Planning Balance

Principle of Development

5.11 Policy OS2 sets out the overall strategy on the location of development for the District. It adopts a hierarchical 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).

5.12 North Leigh 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'.

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

5.14 The existing dwelling and its garden is considered to be previously developed land (also known as brownfield land). New development is therefore supported in principle in this area by Policy H2. In addition, paragraph 120 (c) of the NPPF states 'planning policies and decisions should..... give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs'.

5.15 The additional land forming the proposed development site would be described as undeveloped land adjoining the built up area and in this instance, Local Plan Policy H2 requires convincing evidence to demonstrate the site is necessary to meet an identified housing need. The assessment for the previously refused application at the site in March 2021 noted that 'no such evidence has been provided'.

5.16 It is vital that Local Planning Authorities issue consistent decisions, particularly for similar development proposals on the same site. The background to this site is that 10 homes were refused on this site for several reasons (as stated above) in March 2021. Therefore, a material change must occur that would warrant the LPA coming to a different conclusion than the previous refusal.

5.17 Policy H3 of the Local Plan requires the provision of affordable housing on schemes of 11 or more units or which have a maximum combined gross floor space of more than 1000sqm. Whilst the previous application at the site (ref. 20/02900/FUL) only provided a net increase of 9 units, it would have exceeded the 1000sqm floor space requirement and as such affordable housing should have been provided. However, no affordable housing was provided. Indeed, the lack of affordable housing was discussed within the previous Officer Report and ultimately formed part of refusal reasons 1 and 2.

5.18 The current scheme proposes approximately 989sqm of dwelling floorspace and approximately 74sqm of carport floorspace. The existing dwelling to be demolished is approximately 70sqm. The net

increase of floorspace on site therefore (when subtracting the existing dwelling) is approximately 993sqm. While there is some debate as to whether carports contribute towards the floorspace calculation when assessing affordable housing contributions, the above has shown that should carports be included, or not, the scheme still proposes less than 1000sqm of new floorspace.

5.19 Therefore, the provision of affordable housing is not required to meet Policy H3. However, as part of the development site is on undeveloped land adjoining the built up area, Policy H2 requires convincing evidence to demonstrate that new housing is necessary to meet identified housing needs. Of note is that the applicant now proposes two affordable homes as part of this application. As such, floor space is reduced from the previous scheme and two affordable homes are now provided. These are material changes from the previous refusal.

5.20 The Council's Housing Enabler Officer states that as of 04/04/2022, 119 applicants were registered on the Council's Homeseeker+ system to rent a home in North Leigh. In addition to these 119 applicants there are a further 2426 applicants on the wider district waiting list that could benefit from the development of affordable housing. It is clear that there is a need for affordable housing in North Leigh and the wider district.

5.21 In terms of the Council's land supply position. 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. 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%. 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).

5.22 In light of the discussion above, officers are satisfied that convincing evidence has been presented to demonstrate that there is a need for housing in this location. Furthermore, while a net increase of 9 homes in this location would not significantly boost the supply of homes. It would nonetheless make a contribution.

5.23 Notwithstanding the above assessment, the proposal shall be assessed against the Local Plan as a whole and in particular the general principles of Policy OS2 in more detail below.

Siting, Design and Form

5.24 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.

5.25 Policies OS2 (Locating development in the right places), OS4 (High quality design) and EH2 (Landscape character) 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.

5.26 Officers considered that the design, scale, form and layout of the previous scheme would not form a logical complement to the existing scale, pattern and character of development in this location. This formed part of refusal reason I of application ref. 20/02900/FUL.

5.27 When comparing the previously refused scheme to the current proposal. The proposed development still amounts to a backland form of development with eight of the new dwellings located to the rear of properties fronting onto Common Road. Six of the dwellings would still be large detached properties (plots 3, 6, 7, 8, 9 and 10). Plots 1 and 2; and plots 4 and 5 would still be semi-detached pairs. In addition, both the previously refused scheme and the current scheme propose the same mix of bedroom numbers (seven 3 bed homes and three 4 bed homes). As such, the conflict with Policy H4 remains. Four homes are still proposed to the north of the site and the remaining six to the south. In terms of materials, these are proposed to be slate roofs, reconstituted stone walls, and timber windows and doors. Brick chimneys and timber porches are also proposed.

5.28 There are some differences to the scale, footprint, orientation and design of the dwellings proposed when compared to the previous refusal. Particularly the detached dwellings. However, the siting, materials, pattern, and character of the overall development remains broadly the same as the previous refusal.

5.29 In terms of major changes. All of the garages have been removed and four car ports are now proposed. Six plots will have no garaging/carports. In addition, only one vehicular entrance is now proposed to serve all the dwellings where the previous scheme had two vehicular entrances (one retained for plot 1 and the rest accessed by the new entrance). Plot 1 will have a separate pedestrian access.

5.30 Common Road is characterised by its linear form of development along both sides of the road with Common Close located further to the north comprising a planned cul-de-sac form of development of uniform appearance. Some other cul-de-sacs are also present to the north. This backland form of development proposed bears some resemblance to the cul-de-sacs to the north, however, it is proposed to extend into open countryside to the west, eroding the village setting. The development would be visible from Common Road and partially from the public rights of way to the west of the village.

5.31 Most of the existing trees on the site are to be removed, although the submitted tree schedule indicates that all of the trees are defined as category C and of low overall quality. Nevertheless, the loss of these trees would further expose the development and the expanding edge of North Leigh to views from the public right of way to the west. The roadside hedge is also proposed to be removed.

5.32 Overall, there are insufficient differences in terms of the general design, scale, form, layout and landscape impacts that would warrant coming to a different conclusion than the previous refusal. As such, the proposed development conflicts with Local Plan Policies OS2 and OS4 in terms of the design, scale, form and layout of the proposed development and Policy EH2 as it would fail to protect or enhance the local landscape and the setting of the village.

Highway Safety

5.33 Highway safety did not form a refusal reason for the previous scheme. However, OCC Highways did initially object to the previous scheme as the Refuse Collection Vehicle (RCV) used in the swept path analysis was of insufficient size. That matter was dealt with during the previous application

and it was demonstrated that the swept path for the RCV is very tight within the turning head but the manoeuvre was possible.

5.34 Notwithstanding that the previous scheme was acceptable in highway safety terms. Arguably, this scheme is an improvement when compared to the previous as two separate vehicular accesses were proposed. The existing access for the bungalow retained to serve plot 1 and the rest of the plots accessed by a new entrance. This would have led to a proliferation of accesses in close proximity to each other. As noted, only one access is now proposed, which is considered to be an improvement against the previous scheme in highway safety terms.

5.35 OCC have no objections to the scheme subject to S106 contributions towards highway works and public transport infrastructure and highway conditions.

5.36 The proposed development therefore is acceptable in highway safety terms and accords with policies T1, T2, and T3 of the West Oxfordshire Local Plan 2031 and the NPPF.

Drainage and Flood Risk

5.37 Refusal reason 3 of the previous application stated 'the proposed development fails to provide an acceptable SuDS solution in line with Local and National Standards and water quality standards are not met'.

5.38 The Lead Local Flood Authority objected to the previous scheme and they are also currently objecting to this scheme. However, in their comment dated 07/02/2022 they stated 'generally we don't have an objection to the SuDS design principles. However, additional and corrected information should be provided for the LLFA to be able to fully review'. 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. The LLFA have also not raised water quality standards as a concern.

5.39 The site is in flood zone 1 and is therefore at the lowest risk of flooding. Nonetheless, the proposed development must provide a detailed surface water management strategy in accordance with the Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire. The applicant has submitted additional information in relation to this and the LPA is awaiting the reply from the LLFA.

5.40 Officers are satisfied that the proposed development will not increase flood risk at the site or elsewhere, subject to an acceptable drainage strategy being agreed and officers consider that this technical issue can be overcome. It may be that this is overcome prior to the application being heard at the April 19th Committee, if that is the case, officers will update Members on the additional representations report. Should that not be the case, officers would request that this application be delegated back to officers to overcome this drainage matter.

Trees and Ecology

5.41 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'.

5.42 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.

5.43 Most of the existing trees on the site are to be removed, although the submitted tree schedule indicates that all of the trees are defined as category C and of low overall quality. As such, the loss of these trees is acceptable.

5.44 The impact to biodiversity, particularly that biodiversity net gain (BNG) was not proposed, formed refusal reason 4 of the previous application. In response, the applicant has submitted a biodiversity net gain calculation.

5.45 The proposal would result in a loss of biodiversity, but this loss would be of low value habitats (part garden and part field), as evaluated in the Ecological Survey Report, and there is minimal ecologically meaningful opportunity within the proposed development site to create new habitat (other than hedgerows). The majority of the site would remain within residential garden use and it would therefore be difficult to ensure delivery and ongoing management of the required biodiversity units.

5.46 The applicant has stated that they are willing to pay a sum of money to ensure 10% BNG can be achieved off site. The Council's biodiversity officer has commented on this and stated 'I am supportive of the approach advocated by the agent for the 10% biodiversity net gain to be secured as a financial payment towards habitat creation off-site. There are potential opportunities for this to be delivered within the local area, for example the Wychwood Project, which could be explored via a broker such as the Trust for Oxfordshire's Environment (TOE) in partnership with the council'.

5.47 The proposed development is unlikely to result in the loss of protected species habitats. However, the development would lead to a 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 a financial contribution. This is above what is currently required by law and national or local policy.

5.48 Overall, the proposals would meet the biodiversity hierarchy as set out in Paragraph 180 of the NPPF (subject to complying with the conditions and paying the sum required). As such, the proposal 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. Refusal reason 4 is overcome therefore.

Residential Amenities

5.49 Residential amenity was not raised as a refusal reason previously and as assessed, the layout of the site is broadly the same as the previous scheme. Nonetheless, an assessment is still completed below.

5.50 Adopted Local Plan Policy OS2 states that all development should be compatible with adjoining uses and not have a harmful impact on the amenity of existing occupants. In terms of the properties fronting onto Common Road (Nos 42-38), Plot 10 would be located to the rear of Nos 42 and 40. The

dwelling would be off-set from the boundary by approximately 2m with the closest element comprising a single storey car port. Given the proposed form of the development and generous depth of the gardens to Nos 42 and 40 (over 20m), it is not considered that the proposed development would have a significant adverse impact through overbearing or over-shadowing. In addition, there are no facing windows between Plot 10 and Nos 42, 40 and 38.

5.51 Concerns have been raised in relation to the new access road passing to the side of No 42 and its impact on their amenity through noise, vibration and air quality. No 42 is however separated from the site with a single storey garage and appropriate boundary treatment could ensure that there would be no significant loss of amenity.

5.52 The dwellings backing onto properties fronting onto Common Close would have gardens in excess of 11m and window to window distances of approximately 30m. This exceeds the 22m industry standard required for facing window distances. Those new dwellings to the south of the site would predominantly overlook onto open land.

5.53 Whilst the new pair of semi's adjoining No 46 would be sited slightly further forward in the plot, this is an overlap of just 4m and would be located to the north of No 46, as such loss of light and overshadowing is unlikely. Also, the side window of No 46 is noted. However, this is a small side window at second floor so is unlikely to allow significant views out of to detrimentally affect the privacy of the proposed dwellings. In addition, this window is north facing, so receives very little direct sunlight. The proposed dwelling (plot 1) is unlikely to adversely affect sunlight into this window.

5.54 Taking all of this into consideration, officers are satisfied that the proposal will not detrimentally impinge on the residential amenities of the area in regards loss of privacy, or loss of light, overbearing or overshadowing impacts, noise, pollution (including light), odours or vibration. In addition sufficient private external amenity space is proposed for each property.

S106 matters

5.55 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.

5.56 Policy H3 requires that 40% of the homes are provided as affordable housing. However, the proposed development does not propose sufficient floorspace that would engage Policy H3. Nonetheless, the applicant is proposing to provide two affordable homes and this will be secured via the S106.

5.57 OCC seeks Household Waste Recycling Centre contribution of £940.

5.58 OCC seeks Highway works contribution for the part funding of a shared use cycletrack along the A4095 of £ 10,000.

5.59 OCC seeks Public transport services contribution for improved public transport in this area of £10,510.

5.60 OCC seeks Public transport infrastructure (if not dealt with under S278/S38 agreement) for replacement poles, flags and timetable cases at the Common Close bus stops of £2,330.

5.61 OCC require the Applicant to enter into a S278 agreement and a S38 agreement to mitigate the impact of the development.

5.62 Refusal reason 5 of the previous application was related to not entering into a legal agreement. The applicant has stated that they are willing to enter into a legal agreement to secure the above contributions.

Conclusion (including previous refusal reasons) and Planning Balance

5.63 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.

5.64 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'.

5.65 The proposed development would add 9 dwellings (net) 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, two affordable homes are provided. In light of this affordable housing provision and the addition of 9 homes (net), officers are satisfied that the proposal would accord with Local Plan Policy H2 insofar as it relates to meeting identified housing needs.

5.66 The part of refusal reason 2 relating to mix of property types and sizes is not overcome as both the previously refused scheme and the current scheme propose the same mix of bedroom numbers (seven 3 bed homes and three 4 bed homes). As such, the conflict with Policy H4 remains.

5.67 This application therefore overcomes the part of refusal reason 2 that relates to affordable housing (but not mix of housing) and the parts of refusal reason 1 that relate to the need for the homes (H2).

5.68 However, H2 is clear in that proposals that accord with H2 also must accord with other policies in the Local Plan, in particular the general principles in Policy OS2. There are insufficient differences in terms of the general design, scale, form and layout that would warrant coming to a different conclusion than the previous refusal. As such, the development conflicts with Local Plan Policies OS2 and OS4 in terms of the design, scale, form and layout of the proposed development and Policy EH2 as it would fail to protect or enhance the local landscape and the setting of the village, and would fail to conserve the natural environment. The parts of refusal reason 1 relating to design, scale, form, layout and landscape therefore are not overcome.

5.69 With regard to refusal reason 3 (SuDS solution in line with Local and National Standards and water quality standards). The LLFA have not raised water quality standards as a concern. As such, this element of refusal reason 3 is overcome. In addition, the site is in flood zone 1 (at the lowest risk of flooding) and while the LLFA are still objecting to the proposed drainage scheme, officers consider that this technical issue can be overcome. It may be that this is overcome prior to the application being heard at the April 19th Committee, if that is the case, officers will update Members on the additional

representations report. Should that not be the case, officers request that this application be delegated back to officers to overcome this drainage matter. Officers are confident that refusal reason 3 can be overcome.

5.70 Moving to refusal reason 4 (biodiversity net gain (BNG)). There would be a loss of on-site biodiversity. However, subject to a financial sum being submitted and control through condition discharge submissions, a 10 % biodiversity net gain would be achieved. Officers acknowledge that this is above the minimum requirements. This overcomes refusal reason 4.

5.71 The applicant has agreed to enter into a legal agreement to secure the provision of affordable housing and contributions to public transport highways improvement schemes and waste. This overcomes refusal reason 5.

5.72 Application (ref. 20/02900/FUL) was refused in March 2021 for 10 homes on this site and this report has dealt with those reasons for refusal in detail. To summarise, refusal reasons 3, 4 and 5 are/can be overcome and refusal reasons 1 and 2 are partly overcome. As some conflict with Local Plan policies remain, a planning balance is required to weigh up the benefits of the scheme against this conflict.

5.73 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. This attracts moderate weight.

5.74 There would be a loss of on-site biodiversity however, offsite 10 % biodiversity net gain would be achieved. Officers acknowledge that this is above the minimum requirements. However, this attracts modest weight commensurate with the scale of development.

5.75 Financial contributions to local services/infrastructure through a Section 106 agreement is also a positive impact. This attracts moderate weight commensurate with the scale of development.

5.76 The proposed development would add 9 (net) dwellings in a sustainable location to West Oxfordshire District housing stock. In light of the Government's objective of significantly boosting the supply of homes, this attracts significant weight.

5.77 As of 04/04/2022, 119 applicants were registered on the Council's Homeseeker+ system to rent a home in North Leigh. In addition to these 119 applicants there are a further 2426 applicants on the wider district waiting list that could benefit from the development of affordable housing. It is clear that there is a need for affordable housing in North Leigh (and the wider district). While this application only proposes two affordable homes, in light of this identified need, this provision carries significant weight.

5.78 The proposed development would cause some harm to the character and appearance of North Leigh and its landscape setting. When considering the scale of the development proposed, this harm is considered to be moderate. In addition, the proposed mix of homes is unsatisfactory as only 3 and 4 bedroom homes are proposed. However, commensurate with the scale of development, this harm is considered to be modest.

5.79 As identified, significant weight is attributed to the addition of 9 new homes in a sustainable location. Significant weight is also applied to the provision of two much needed affordable homes. Positive weight is also attributed to 10% BNG, economic benefits from the construction phase and beyond, and contributions to public transport highways improvement schemes and waste.

5.80 Officers are satisfied, on balance, that the benefits of the scheme outlined overcome the moderate conflict when assessed against the Local Plan as a whole. The application is therefore recommended for approval.

5.81 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 S106 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 The development shall be constructed with the materials specified in the application.

REASON: To ensure that the development is in keeping with the locality and for the avoidance of doubt as to what is permitted.

4 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, AA, B, C, D, E, and G shall be carried out other than that expressly authorised by this permission.

REASON: Control is needed to protect the character and appearance of the development, the wider area and neighbour amenity.

5 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 additional windows/rooflights shall be constructed in the side elevation(s) of the building(s) hereby approved.

REASON: To safeguard privacy in the adjacent properties.

6 Before above ground building work commences, a schedule of materials (including samples) to be used in the elevations and roofs 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 and shall be retained as such thereafter.

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

7 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.

REASON: To prevent pollution of the environment in the interests of the amenity and to accord with West Oxfordshire Local Planning Policy EH8 and Section 15 of the NPPF.

- 8 The dwellings hereby approved shall be designed and constructed to incorporate measures to ensure that as a minimum, they achieve the internal and external ambient noise levels contained in British Standard 8233:2014 Guidance for Sound Insulation and Noise Reduction for Buildings (or later versions).

REASON: In the interests of residential amenity.

- 9 Prior to work commencing on the site, an Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Environmental Management Plan shall include the following details:

2. Development contacts, roles and responsibilities
3. Public communication strategy, including a complaints procedure.
4. Dust suppression, mitigation and avoidance measures.
5. Noise reduction measures, including use of acoustic screens and enclosures, the type of equipment to be used and their hours of operation.
6. Use of fences and barriers to protect adjacent land, properties, footpaths and highways.
7. Details of parking and traffic management measures.
8. Avoidance of light spill and glare from any floodlighting and security lighting installed.
9. Wheel washing facilities

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

- 10 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.

- 11 No dwelling shall be occupied until the parking area and driveways have been surfaced and arrangements made for all surface water to be disposed of within the site curtilage in accordance with details that have been first submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure loose materials and surface water do not encroach onto the adjacent highway to the detriment of road safety.

- 12 The car parking areas (including where appropriate the marking out of parking spaces) shown on the approved plans shall be constructed before occupation of the development and thereafter retained and used for no other purpose.

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

- 13 The carports hereby permitted shall be used for the parking of vehicles and ancillary domestic storage only and shall not be enclosed or used as additional or independent living accommodation without the prior approval, in writing, of the Local Planning Authority.

REASON: To ensure that adequate car parking facilities are provided in the interests of road safety and to protect the amenity of nearby occupiers.

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

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

- 15 No development shall commence unless and until a certificate confirming the agreement of an 'Off-Site Biodiversity Net Gain' or 'Offset' Provider to deliver the required 0.5 biodiversity units has been submitted to and agreed in writing by the Local Planning Authority.

The written approval of the Council shall not be issued before the certificate has been issued by the Off-Site Biodiversity Net Gain Provider. The details of biodiversity enhancements shall be documented by the Offset Provider and issued to the Council for their records.

REASON: To secure the delivery of off-site measures to ensure that a biodiversity net gain is achieved in accordance with Policy EH3 of the West Oxfordshire Local Plan 2011-2031 and paragraphs 174, 179 and 180 of the National Planning Policy Framework.

- 16 The development shall be completed in accordance with the recommendations in Section 6 of the Ecological Survey Report dated September 2020 prepared by Philip Irving (pages 10 to 12 inclusive), as submitted with the planning application. All the recommendations shall be implemented in full according to the specified timescales, unless otherwise agreed in writing by the local planning authority, and thereafter permanently retained and maintained.

REASON: To ensure that biodiversity is protected and enhanced 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.

- 17 Before the erection of any external walls of the new dwellings hereby approved, full details of the following biodiversity enhancements shall be submitted to, and approved in writing by, the local planning authority:

- i. At least 1 no. integrated bat box integrated into each of the northern elevations of the properties on plots 1, 3, 4, 5 and 6 (i.e. 5 no. boxes in total);
- ii. Clusters of at least 3 no. integrated swift bricks into the northern elevations of the new buildings on plots 2, 7, 8, 9 and 10 (i.e. 15 no. swift bricks in total); and
- iii. Creation of gaps beneath fencing to provide 'hedgehog highways'.

The details shall include technical drawings 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 dwellings hereby approved are first occupied and thereafter permanently retained and maintained.

REASON: To provide biodiversity enhancements and ensure permeability through the site for hedgehogs 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.

18 A Hedgerow Planting and Management Plan (HPMP) shall be submitted to, and approved in writing by, the Local Planning Authority before occupation of the development hereby approved. The content of the HPMP shall include, but not necessarily be limited to, the following information:

- i. Full landscaping specification for the planting of new native and species-rich hedgerows (at least 6 no. native tree/shrub species) and enhancement of the existing hedgerow, including species composition and planting regime (e.g. double staggered rows);
- ii. Aims and objectives of the long-term management of existing and new hedgerows;
- iii. Appropriate management options for achieving aims and objectives;
- iv. Prescriptions for management actions;
- v. An annual work schedule (i.e. identifying timing of management operations); and
- vi. Details of how the HMP will be communicated to the occupiers of the development (e.g. as part of a 'homeowners information pack' or similar).

The planting of the new hedgerows and the provision of the management plan to new residents shall be implemented in full in accordance with the approved details.

REASON: To ensure that new hedgerows are planted and maintained appropriately in order to enhance their biodiversity value, for example for nesting birds, pollinating insects and hedgehogs, in accordance with paragraphs 174, 179 and 180 of the NPPF, 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.

INFORMATIVES :-

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.

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

- Electricity-fed heating systems and renewable energy, for example solar panels and heat pumps; thus avoiding fossil fuel based systems, for example gas boilers

- Wall, ceiling, roof, and floor insulation, and ventilation
- High performing triple glazed windows and airtight frames
- Energy and water efficient appliances and fittings
- Water recycling measures
- 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/>

The Acoustics Ventilation and Overheating Residential Design Guide. Version 1.0 (Jan 2020) provides current additional valuable guidance.

If any of the roads within the new development are to be offered up for adoption to the Local Highway Authority, a S38 Agreement will be required. For any private roads, a Private Road Agreement will be required between the developer and Oxfordshire County Council. For guidance and information on road adoptions please contact the County's Road Agreements Team on 01865 815700 or email Road.Agreements@oxfordshire.gov.uk

Please note the Advance Payments Code (APC), Sections 219 -225 of the Highways Act, is in force in the county to ensure financial security from the developer to off-set the frontage owners' liability for private street works, typically in the form of a cash deposit or bond. Should a developer wish for a street or estate to remain private then to secure exemption from the APC procedure a 'Private Road Agreement' must be entered into with the County Council to protect the interests of prospective frontage owners.

Several "offset" providers can take financial payments to deliver off-site biodiversity net gain projects in Oxfordshire, including the Trust for Oxfordshire's Environment (TOE) - <https://www.trustforoxfordshire.org.uk/biodiversity-offsetting> . The number of Biodiversity Units required to delivery biodiversity net gain for this permission is 0.5.

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.

For more information on hedgehog highways, please visit <https://www.hedgehogstreet.org/help-hedgehogs/link-your-garden/>

With regard to the condition for bat and bird boxes, it is recommended that at least 1 no. bat box be integrated into the southern elevations of plots 1, 3, 4, 5 and 6; and clusters of at least 3 no. swift bricks be integrated into the northern elevations of plots 2, 7, 8, 9 and 10. The applicant and their architect should note the advice of Swift Conservation with regard to the installation of the swift bricks available at <https://www.swift-conservation.org/Nestboxes&Attraction.htm#Built%20in>

With regard to hedgerow planting, a mixture of the following native tree/shrub species is considered to be appropriate for this location: Dog rose, Elder, Field maple, Field rose, Guelder rose, Hawthorn, Hazel, Holly, Honeysuckle, Hornbeam, Oak, Spindle, Wild privet and Wych elm

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Date: 5th April 2022