

# WEST OXFORDSHIRE DISTRICT COUNCIL

## UPLANDS AREA PLANNING SUB-COMMITTEE

**Date: 22nd August 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.

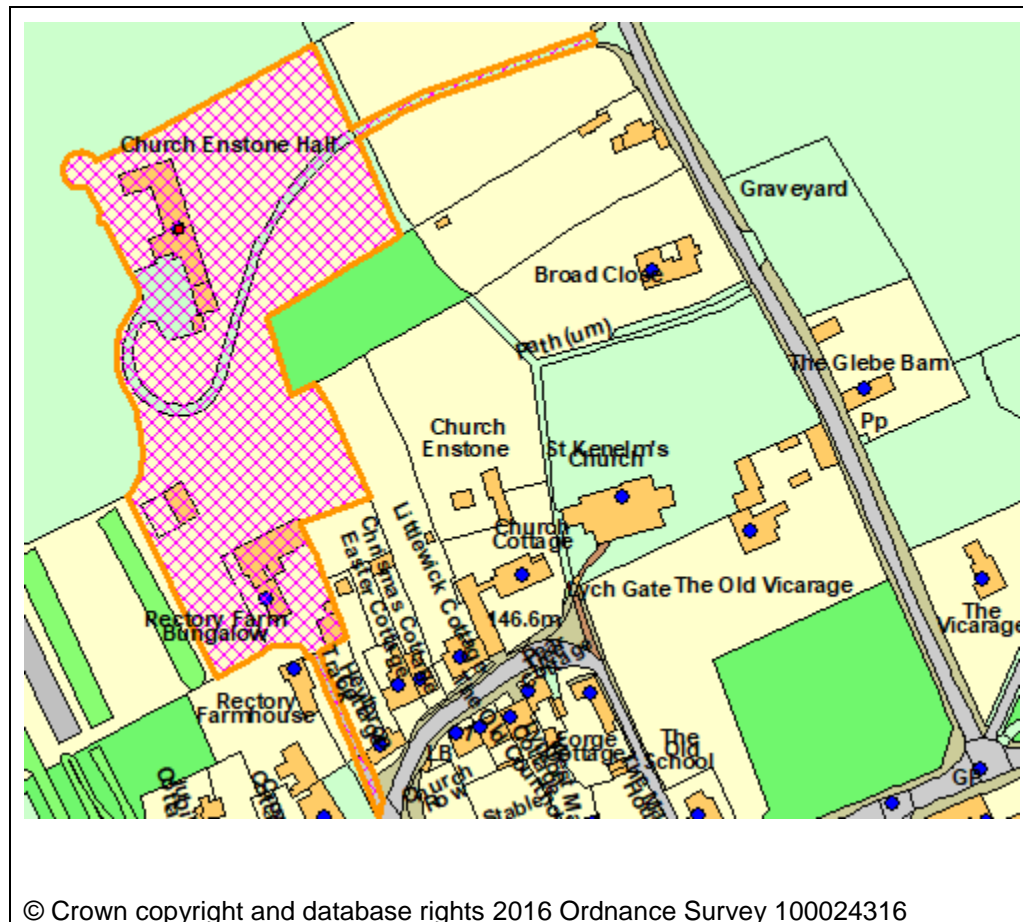
Please note that:

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](http://www.westoxon.gov.uk/meetings)

<b>Page</b>	<b>Application Number</b>	<b>Address</b>	<b>Officer</b>
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33 - 46	22/00838/OUT	Land At Chapel Lane	Stephanie Eldridge

Application Number	22/00478/FUL
Site Address	Church Enstone Hall Little Tew Road Church Enstone Chipping Norton Oxfordshire OX7 4NL
Date	10th August 2022
Officer	James Nelson
Officer Recommendations	Approve
Parish	Enstone Parish Council
Grid Reference	437824 E 225212 N
Committee Date	22nd August 2022

### Location Map



## **Application Details:**

Removal of existing bungalow adjoining Tithe Barn and garage outbuilding. Erection of a new detached dwelling with associated works. Change of use of land to create additional domestic curtilage along with the construction of an outdoor swimming pool to serve Church Enstone Hall. Remedial works to Tithe Barn (amended plans).

## **Applicant Details:**

Mr And Mr Cornet De Ways Ruart  
Rectory Farm  
Church Enstone Hall  
Little Tew Road  
Oxfordshire  
Church Enstone  
OX7 4NL

## **I CONSULTATIONS**

Conservation Officer

With respect to the fine Grade II\* listed monastic tithe barn, these proposals are all eminently supportable. The existing bungalow is a major blight, greatly detracting from the barn, and removal is heartily to be welcomed - and the new cottage, in principle, is a price worth paying, in my view. Otherwise, the proposals for the barn are all supportable - subject to samples of the new stone tiles. And note that they are removing the concrete floor and substituting breathable limecrete - again, very welcome. But one thing that needs more thought is that there is an important date stone set into the east wall of the barn - which would become external when the bungalow is removed, and thus exposed to weather for the first time in many years. They need a specialist conservator's report on the condition of this, and also recommendations for any action that needs to be taken.

With respect to the proposed cottage, I think that the siting, the volume and the general form is acceptable - and in fact there were once farm buildings here. However, whilst the proportions are good, I do think that as currently shown it is a little too fussy - whereas we need this new building to be as self-effacing as possible, to reduce impact on the setting of the tithe barn. So, I suggest that they omit both of the shallow projecting front wings and cross gables, and just have simple semi-dormers. I also suggest that they lower it as far as possible.

*Design of dwelling subsequently amended and schedule of works provided*

OCC Highways	No objection.
WODC Env Health - Uplands	No objection.
WODC Drainage Engineers	No objection subject to condition.
OCC Archaeological Services	<p>The site is located in an area of considerable archaeological interest and the proposed pool is located immediately west of a scheduled monument of an early C15th stone barn. A medieval rectory has been recorded 50m to the west of the proposed pool. This has been suggested is the grange of Wynchcombe Abbey.</p> <p>A series of medieval fishponds have also been recorded immediately west of this. The proposed pool site is located 115m west of the C12th St Kenelm's Church. An archaeological evaluation has been undertaken on the location of the proposed swimming pool, which recorded medieval features including ditches and pits. The excavations for the swimming pool will impact these features. Further medieval remains may also survive beneath the existing bungalow which would be disturbed by the new dwelling. We would, therefore, recommend that, should planning permission be granted, the applicant should be responsible for ensuring the implementation of a staged programme of archaeological investigation to be maintained during the period of construction. This can be ensured through the attachment of a suitable conditions.</p>
Parish Council	<p>Enstone Parish Council supports the removal of the existing bungalow but objects to the construction of an outdoor swimming pool at a 17th Century medieval site. Could the swimming pool be built in a different location to this historic site?</p> <p>Enstone Parish Council wishes to see the heritage asset report, as requested by the lead archaeologist. The Parish Council has read both the Archaeology Report and Historic England documents.</p> <p>The site is of great historical importance within Enstone Parish which should be preserved and protected.</p>
Historic England	<p>The application site sits immediately adjacent to the scheduled monument known as: Barn at Rectory Farm, Church Enstone, a 14th century tithe barn. A package of works is proposed including the construction of a swimming pool, the removal of a bungalow attached to the tithe barn, the construction of new manager's accommodation and a series of repairs to the tithe barn. We do not object to the proposals but will require more information on the proposals to re-roof the tithe barn. The remaining elements of the scheme are</p>

multifaceted with the construction of the new manager's accommodation and swimming pool bringing a low level of harm to the setting of the scheduled monument. The removal of the attached bungalow to the barn and the package of repairs proposed (excluding the current roofing proposals) will be of benefit and we are supportive of these elements of the scheme.

*Further information subsequently provided- full report online.*

The proposed works fall in to several parts, but our detailed comments will focus on the proposed works to the tithe barn which dates from 1382 having originally been built for Walter de Wynforton, Abbot of Winchcombe. Please note that as this structure is both scheduled and listed, Scheduled Monument Consent will be required for any proposed works which affect it. This is dealt with exclusively by Historic England and is agreed by the Secretary of State. There may also be a requirement for additional archaeological input given the sensitivity of the site, especially where services need to be brought into the buildings.

#### Removal of the existing bungalow

At present there is a 1950's bungalow attached to the barn, which obviously has a considerable impact, both physically and visually. The proposals are to remove this, which is greatly welcomed, but we would want to be very sure that the demolition was done extremely carefully and would not inadvertently cause any harm to the historic fabric where the two buildings abut. Further information is likely to be required to determine exactly how the demolition works are to take place.

#### Removal of the garage and its replacement with a new house

The existing single storey garage block close to the tithe barn is to be demolished and replaced with a new house, which will be accommodation for the manager. There seems to be little proper assessment of the garage which currently follows a boundary wall, and has what appears to be a historic wall / steps projecting from the smaller section. We are concerned that there may be historic fabric in this area which has not been properly assessed and this could be important given the intention is to completely remove the garage. We would therefore suggest that further information is provided in respect of the garage and the adjacent boundary wall before a firm decision can be made regarding its complete removal.

Should the removal of the garage be acceptable, the proposed replacement house is a storey higher and therefore there will be a slight visual impact on the adjacent barn, although we do appreciate that effort has gone into making the new house more visually in-keeping with its surroundings. However, the new dwelling may 'force'

the boundary wall into a more regular line which may be an issue if it is a historic wall, so this will need to be clarified.

#### Remedial works to the tithe barn

We welcome the proposed works to the tithe barn in principle, but we do have some specific concerns at this stage, primarily due to a lack of information:

- We are very concerned about the proposed treatment of the buttress at the north-west corner (see proposed Tithe Barn Elevations 3 of 3). In reality this probably just consists of re-pointing works, but it is highlighted on the drawing as to be being demolished, which we would not support without extremely robust justification. This needs to be clarified.
- Roof: it is proposed to 're-roof entire roof with new stone slate tiles and timber roofing battens to match existing'. The total replacement of the battens will require stripping the roof which introduces a risk of damage without any justification. We would expect to see a Condition Survey from a Conservation Accredited Structural Engineer and then details of the possible options, with repair being preferable to replacement. A Specification of the works will be required and this should include details such as the proposed mortar mixes.
- We would not support rebuilding as opposed to stabilisation where external masonry is 'collapsing' unless it can be demonstrated that this is the only option. The masonry does not appear to be collapsing at all and there is no Structural Engineers report provided.
- 'Discrete lighting and power' is to be installed but no details have been provided nor is it stated what the proposed use of the barn will be. Details of fixing methods and cable runs should be provided given the age of the fabric, particularly where below ground works are required.
- The replacement of the existing concrete floor with limecrete is likely to be acceptable in principle, but it would be helpful to have further details and a methodology to ensure that no harm is done.

#### Summary

Overall we are generally supportive of the proposals, especially the removal of the bungalow. However, further information is required before the application can be determined.

*Further information subsequently provided.*

Council For British Archeology    No Comment Received.

## **2 APPLICANT'S CASE**

### **2.1 Design and Access Statement**

- 2.1.1 The applicant has submitted a Design and Access Statement to support the application. The key points are summarised below, the full document is available to view on the Council's website.
- 2.1.2 Rectory Farm at is an important and highly sensitive site, which requires a sympathetic and imaginative design solution to ensure not only the protection of the setting of the Tithe Barn, but also improvements in its visual appearance to the village of Church Enstone immediately to the south.
- 2.1.3 This proposal represents a unique and exciting opportunity to complete the site masterplan; to include the sensitive repair of the Tithe Barn, the removal of the bungalow to facilitate the wider view from the public access point to be corrected, and restore it to its historically correct form, a replacement energy efficient dwelling in keeping with the local vernacular constructed and a modest outdoor pool located in what was land historically used for domestic purposes.
- 2.1.4 Involvement with Heritage Professionals, Ecologists and Archaeologists with diligent historical research and evaluation, as well as careful design development, has produced a considered solution for the site which is of the highest quality, and is to the benefit of all stakeholders both now and in the future.
- 2.1.5 The proposal can also be seen to align with local and national planning policy: through a combination of extensive research and appreciation of vernacular design along with careful positioning within the site, we are confident that the design is of high quality, enhances its immediate setting (and vastly enhances the views of the barn) and is sensitive to the defining characteristics of the local area.
- 2.1.6 Given the significance of this site and respective heritage assets, great weight is given to its conservation and therefore the repair of the Tithe Barn should be welcomed. The localised stone repairs and French drains are holistic solutions to the damp which is caused by the external ground levels.
- 2.1.7 The bungalow exacerbates an unfortunate and detrimental impact on the historic Tithe Barn, masking its evidential and aesthetic significance. By relocating the replacement dwelling, it restores and fully opens up the south-east elevation of the barn (the key public vantage point), improving its evidential and aesthetic significance along with ensuring that views from the rear of the Rectorial Tithe Barn outwards over the remnant of the formal garden with terraces, fish pond and gravel walks are respected.
- 2.1.8 The swimming pool as a stand-alone item was previously seen to cause 'less than substantial harm' by the Case Officer (following positive pre-Application advice). However, following suitable archaeological investigation, and when included within a proposal to remove the bungalow and series of repairs to the barn, it is seen to be justifiable. After all, the proposals contained within this application have public benefits of the restoration of the Tithe Barn, the views and the



ecological benefits, and above all securing its optimum viable use through a series of sympathetic repairs.

2.1.9 The setting of the pool has been thoroughly explored, and being set down in a terrace below the barn, which cannot be seen from various locations as previously noted, and will be a simple dark coloured shell with a reclaimed York stone coping in an area which was historically a landscaped terrace.

2.1.10 Overall, we feel that the proposals have a long term benefit to the site and on the heritage assets at the site including the setting of the Scheduled Ancient Monument/Grade II\* Listed Barn. Given the significance of this site and respective heritage assets, great weight is given to its conservation, and taking into account all the proposals, we feel that the masterplan presented here including the swimming pool can either conserve or enhance its setting,

2.1.11 As such, the proposal is contrary to Policies OS2, OS4, EH9, EH11, and EH15 of the adopted West Oxfordshire Local Plan 2031, the West Oxfordshire Design Guide 2016, the National Design Guide, and the relevant paragraphs of the NPPF 2019.

### **3 THIRD PARTY REPRESENTATIONS**

#### **3.1 Objection Comments**

3.1.1 A total of two comments opposing the application have been received. The following matters are raised:

- The construction of a swimming pool close to the Tithe Barn is inconsistent with the preservation of a heritage asset;
- Inaccuracy regarding the history of the site;
- Damage/disturbance to medieval remains caused by the pool construction; and
- Disturbance that would result from construction

All matters are addressed in Section 5 of this report.

#### **3.2 Support Comment**

3.2.1 A single comment in support of the scheme has been received. The comment references the heritage benefits that would be accrued through the removal of the bungalow and repairs to the Barn. The siting of the proposed pool is considered suitable given the former use of the land.

### **4 PLANNING POLICIES**

OS1NEW Presumption in favour of sustainable development

OS2NEW Locating development in the right places

OS4NEW High quality design

H2NEW Delivery of new homes

H6NEW Existing housing

T1NEW Sustainable transport

T3NEW Public transport, walking and cycling

T4NEW Parking provision

EH2 Landscape character

EH3 Biodiversity and Geodiversity

EH9 Historic environment

EH11 Listed Buildings

NPPF 2021

DESGUI West Oxfordshire Design Guide

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

## **5 PLANNING ASSESSMENT**

### **5.1 Introduction**

5.1.1 This application seeks consent at Church Enstone Hall, Little Tew, Road, Church Enstone for:

*Removal of existing bungalow adjoining Tithe Barn and garage outbuilding. Erection of a new detached dwelling with associated works. Change of use of land to create additional domestic curtilage along with the construction of an outdoor swimming pool to serve Church Enstone Hall. Remedial works to Tithe Barn.*

5.1.2 The Tithe Barn may date from the C14 and is Grade II\* listed and designated as a Scheduled Monument. The application site lies in close proximity to listed buildings to two Grade II listed buildings to the south (Heythrop Cottage and Rectory Farmhouse). The application site is not located within a conservation area or area of outstanding natural beauty and is within Flood Risk Zone 1. The application is brought before Members due to the objection of the Enstone Parish Council.

### **5.2 Relevant Planning History**

13/1219/P/FP- Erection of replacement dwelling together with associated works, landscaping and restoration of tithe barn (approved).

13/1220/P/LB- Restoration of tithe barn including demolition of existing farm bungalow and derelict stabling (approved).

14/1084/P/FP- Erection of replacement dwelling together with associated works, landscaping and restoration of tithe barn (to allow amendments to previously approved application 13/1219/P/FP) (approved).

16/01256/HHD- Alterations to dwelling and outbuildings, erection of workshop/store (approved).

16/01257/LBC- Internal and external alterations (approved).

20/02364/FUL- Erection of four bay garage (approved).

21/00366/FUL- Change of use of land to enlarge garden area and renovation of existing outbuilding to become pool building, including leisure facilities and pool plant equipment, installation of a swimming pool with paved area, and a proposed gravel track from existing driveway to the Tithe Barn courtyard (refused).

21/02346/HHD- Conversion of existing domestic outbuilding to garden pavilion comprising gym, sauna, steam room, loggia bar and changing facilities. Provision of gravel track (approved).

### 5.3 Relevant Planning Considerations

5.3.1 Taking into account planning policy, history, other material considerations and the representations of interested parties, your officers consider that the key considerations for the application are principle, siting, design and form, visual and heritage impact, neighbourly amenity, highways impacts and ecology impacts.

### 5.4 Principle

5.4.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. Section 70 (2) of the Town and Country Planning Act 1990 (the Act) provides that the Local Planning Authority (LPA) shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations. The revised NPPF reiterates the pre-eminence of the local plan as the starting point for decision-making (Paragraph 2 of the NPPF). The NPPF is a material consideration in any assessment and makes clear in Paragraph 12 that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Therefore, development coming forward must be determined in accordance with the Local Development Plan, which in this case is the West Oxfordshire Local Plan 2031 (WOLP).

5.4.2 The application is comprised of three elements. Firstly, the provision of a replacement dwelling via erection of a detached cottage in place of an existing bungalow and garage building. The second element is the installation of a swimming pool and associated material change in the use of the land to serve an existing dwelling on the site, Church Enstone Hall. Finally, remedial work will be carried out to the listed Tithe Barn. The principle of development in relation to each of these three elements is discussed below.

5.4.3 WOLP Policy OS2 is relevant to all elements of the scheme as it provides the starting point for locating new development, the site sites within the small village of Church Enstone. OS2 details that:

*"Development in the small villages, hamlets and open countryside will be limited to that which requires and is appropriate for a rural location and which respects the intrinsic character of the area. Proposals for residential development will be considered under policy H2."*

5.4.4 The application must also demonstrate compliance with the general principles of OS2 notably that 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*
- *Conserve and enhance the natural, historic and built environment.*

5.4.5 In terms of the provision of a replacement dwelling, WOLP H2 outlines that new dwellings in small villages will be permitted in limited circumstances including:

*"replacement dwellings on a one for one basis."*

5.4.6 Further, WOLP Policy H6 deals directly with the principle of development for proposed replacement dwellings and states:

*"proposals to replace an existing permanent dwelling which is not of historical or architectural value will be permitted on a one-for-one basis, provided the character and appearance of the surrounding area is not eroded, there would be no harmful impact on ecology or protected species and the replacement dwelling is of a reasonable scale relative to the original building."*

5.4.7 Your officers therefore consider that there is clear policy support for the principle of a replacement dwelling in this location provided the proposal can demonstrate compliance with the four tests as set out in Policy H6. Further, the remaining elements of the scheme are also considered acceptable in principle subject to demonstration of compliance with the general principles of Policy OS2 as well as the policies of the development plan when read as a whole.

## **5.5 Siting, Design and Form**

- 5.5.1 Local Plan Policy OS4 states that new development should respect the historic, architectural and landscape character of the locality. Section 12 of the revised NPPF reinforces the fundamental nature of good design to sustainable development and states that 'development that is not well designed should be refused, especially where it fails to reflect local design policies' (Para. 134).
- 5.5.2 The proposed new dwelling would replace a modern bungalow attached to the Grade II\* listed Tithe Barn. The existing bungalow was a former milking shed converted to a dwelling in the 1970s under planning ref: C73/0208. Your officers consider that the bungalow is not of historical or architectural value and the principle of its removal is therefore acceptable in accordance with WOLP Policy H6.
- 5.5.3 The replacement dwelling itself would be sited in place of an existing modern garage building against the eastern site boundary. The two-bedroom, detached dwelling would be of modest scale, set over one and a half storeys with an attached garage. It would be dual pitched and constructed of local Cotswold stone with a ridge height of 7.2 metres (m) and an eaves height of 4m. The design would display a low-key, vernacular character, employing locally characteristic forms, materials and detailing such as the proposed chimney and window design. For the purposes of WOLP Policy H6, the proposed replacement dwelling is considered of reasonable scale in comparison to the bungalow to be removed. Whilst the proposed dwelling would represent an increase in terms of height, the footprint of the proposed dwelling would be smaller than the existing bungalow and the overall massing is comparable.
- 5.5.4 The proposed pool would be sited to the west of the Tithe Barn on a grassed terrace area over a footprint of 20m by 7m. Works to the Tithe Barn include repairing the existing roof tiles and 'torching' the existing slates, stonework repair, reopening of triangular openings and the installation of a French drain. Further internal works are proposed and assessed under concurrent Listed Building Consent (LBC) application ref: 22/00582/LBC as they do not amount to development for the purposes of the Act.

5.5.5 The visual and heritage impacts of the proposed development is fully considered in the following section of this report.

## **5.6 Visual and Heritage Impact**

- 5.6.1 As the Tithe Barn is a listed building and within the setting of nearby listed buildings, officers are required to take account of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended which states that considering development which affects a listed building, the local planning authority shall have special regard to the desirability of preserving the building or its setting or of any features of special architectural or historic interest which it possesses. WOLP Policies OS2, EH9 and EH11 also contain a strong presumption against heritage harm.
- 5.6.2 The effect of a proposed development upon a scheduled monument is also a material planning consideration in this case and WOLP Policy EH9 outlines that "great weight and importance" will be given to conserving and/or enhancing the significance of designated heritage assets, including scheduled monuments. This applies to both the fabric of the scheduled monument and its setting.
- 5.6.3 Section 16 of the National Planning Policy Framework (NPPF) states that in determining applications, LPAs should take account of the desirability of sustaining or enhancing the significance of heritage assets. Paragraph 194 requires the applicant to describe the significance of affected heritage assets. 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 scheduled monument, 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.
- 5.6.4 The application has been furnished with a heritage statement, which has provided an assessment of the significance of the Tithe Barn and impact of the proposals upon this significance. Given the scale and nature of the proposed changes, officers consider that the assessment provided allows the LPA to fully assess the impact on the proposal in line with paragraph 194 of the NPPF.
- 5.6.5 As the scheme comprised three distinguishable elements, the impact of each will first be considered before conducting a heritage balance to determine the overall impact that the proposal would have upon the identified designated heritage assets.
- 5.6.7 In order to identify the potential impact of the proposal upon the significance of designated heritage assets, it is first necessary to identify and assess the particular significance of the assets as directed in NPPF Paragraph 195. In this case, the principle heritage asset that would be affected is the C14 Rectorial Tithe Barn which is both Grade II\* listed and a scheduled monument. Secondly, the proposed works have the potential to affect the setting of two listed buildings to the south of the site (Heythrop Cottage and Rectory Farmhouse). In the case of the Barn, its significance is largely derived from its historical, cultural and social contribution to the area, together with its architectural significance as a very well preserved and fine example of a late medieval tithe barn.

- 5.6.8 The site has also been subject to archaeological investigation, which has evidenced medieval features including ditches and pits. The application has been subject to consultation with Oxfordshire County Council's Archaeologist who has raised no objection to the scheme subject to the use of planning conditions.

### **Replacement Dwelling and Works to Tithe Barn**

- 5.6.9 The most significant element of the scheme is the removal and replacement of the modern existing bungalow. The applicant's Design and Access Statement/Heritage Report states that:

*"The removal of the bungalow is seen as a major improvement for the site, having a positive impact to the traditional historic character, integrity, and setting of the Listed Building."*

- 5.6.10 Following consultation with the LPA's highly qualified and experienced Conservation and Design Architect, your officers share this view as the existing bungalow detracts significantly from the setting of the Tithe Barn and partially obscures its historic form. Therefore, its removal and replacement with a more locally characteristic dwelling, set in a less prominent location within the site and further away from the Barn is considered to result in a significant improvement to the setting of the Barn and a slightly positive impact upon the setting of nearby listed buildings. This results in a direct enhancement to the identified heritage assets, to which great weight should be applied as directed in WOLP Policy EH9.
- 5.6.11 The proposed works to the Tithe Barn itself are also considered to result in a positive impact upon the Grade II\* listed barn. The works are largely non-intrusive and would conserve and reinstate the Barn whilst securing its long term future through improved drainage and works to secure the roof. Therefore, this element of the scheme also results in a direct benefit in heritage terms to which great weight should be applied in the planning balance.

### **Proposed Pool**

- 5.6.12 The remaining element of the scheme is the installation of a swimming pool on land to the west of the Tithe Barn, which lies outside of the scheduled monument. The pool would be set on a levelled terrace, below the level of the barn and screened in the approach to the Barn from the south. This terrace forms the upper level of a range of three with the lower an ornamental pond and the upper two laid to grass. The design of the pool is informed by the existing pond. The immediate setting of the barn as viewed from the west is therefore representative of historic ornamental landscaping. Your officers consider the addition of a pool will further formalise the setting of the barn, resulting in a modern domesticating impact upon its setting.
- 5.6.13 This change in character would result in some harm to the setting of the Barn when viewed in isolation. Your officers consider that given that the proposed pool would not impact the fabric of the listed building and its impact upon its setting would be somewhat offset by the existing landscaping on the site, this harm should be considered 'less than substantial' for the purposes of NPPF Paragraph 202. 'Less than substantial' encompassed a wide range of harm and your officers consider that in this case, the identified harm is at the lower end of the scale.
- 5.6.14 Where less than substantial harm to a designated heritage asset is identified, NPPF Paragraph 202 dictates that "this harm should be weighed against the public benefits of the proposal". A heritage balancing exercise is therefore carried out in the following section of this report.

## **Heritage Balance**

5.6.15 In this instance, the proposed replacement dwelling (including removal of modern bungalow) and remedial works to the Barn would result in significant enhancements to both the setting and fabric of the Barn, as well as a slight positive impact with respect to the setting of nearby listed buildings through the removal of the bungalow. In officers assessment, as informed by the LPA's Conservation and Design Architect, the enhancements to the fabric and setting of the Tithe Barn, and nearby listed dwellings, resulting from the proposed replacement dwelling and remedial works constitute clear public (heritage) benefits which far outweigh the 'less than substantial' harm to the setting of the Tithe Barn that would result from the addition of a swimming pool. As a result, the proposed development is considered by your officers to accord with WOLP Policies OS2, EH9 and EH11 as well as the guidance contained in the NPPF and is acceptable in visual and heritage impact terms.

## **5.7 Neighbourly Amenity**

5.7.1 Local Plan Policy OS2 states that new development should be compatible with adjoining uses and not have a harmful impact on the amenity of existing occupants. The importance of minimising adverse impacts upon the amenity of future and neighbouring occupiers is reiterated in Policy OS4, the West Oxfordshire Design Guide and NPPF paragraph 185.

5.7.2 With regard to the impact on neighbouring amenity, officers consider that due to the siting of the dwelling in relation to its neighbours no significant impact will result upon neighbouring occupiers by way of overlooking, overbearing or loss of light. Further, the proposed pool is sited well away from neighbouring dwellings and would therefore give rise to no material increase in noise disturbance. In light of this assessment, your officers consider that the proposal is acceptable in terms of neighbourly amenity and the proposed replacement dwelling will provide acceptable levels of amenity for future occupiers. In addition, given the scale of the proposed development, your officers do not consider it necessary to impose conditions regarding construction traffic. Therefore, the proposed development accords with WOLP Policies OS2 and OS4 with regard to neighbourly amenity and is acceptable.

## **5.8 Highways Impacts**

5.8.1 WOLP Policy OS2 states that new development should be provided with safe vehicular access and safe and convenient pedestrian access to supporting services and facilities. The Local Highways Authority (LHA) have been consulted on the application and stated that the proposal would not have a significant detrimental impact in terms of highway safety and convenience on the adjacent highway network. Therefore, your officers consider that the scheme is acceptable in highways terms.

## **5.9 Ecology Impacts**

5.9.1 WOLP Policy EH3 states that the biodiversity of West Oxfordshire shall be protected and enhanced to achieve an overall net gain in biodiversity. Policy H6 also requires that replacement of existing dwellings results in no harmful impact on ecology or protected species.

5.9.2 The application has been furnished with a protected species report, which concludes that subject to the implementation of mitigation, compensation, and enhancement strategies as

detailed in the Report, the proposed development would accord with WOLP Policy EH3 and national legislation with regard to protected species. Officers therefore recommend that should Members resolve to approve the application, a planning condition is imposed to ensure that all working practices and enhancement features as detailed in the Report are implemented in full. Subject to the imposition of planning conditions, your officers conclude that the application is acceptable in ecological terms.

## **5.10 Recommendation**

5.10.1 In light of the above assessment, the application is considered to accord with WOLP 2031 Policies OS1, OS2, OS4, H2, H6, T1, T3, T4, EH2, EH3, EH9 and EH11, the West Oxfordshire Design Guide 2016 and NPPF 2021. The application is therefore recommended to Members for conditional approval.

## **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. The development shall be carried out in accordance with the plan(s) accompanying the application as modified by the revised plan(s) deposited on 28.04.22 and 28.06.22.

REASON: The application details have been amended by the submission of revised details.

3. Prior to the first occupation of the dwelling hereby permitted, the existing dwelling located within the site, currently known as Rectory Farm Bungalow and shown on the submitted site layout plan, shall have been demolished and permanently removed from the site.

REASON: Permission is granted for a one for one replacement only.

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

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

5. The external walls of the proposed dwelling shall be constructed with local natural stone, a sample of which shall be submitted to and approved in writing by the Local Planning Authority before development commences.

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



6. The roof of the proposed dwelling shall be covered with materials, a sample of which shall be submitted to and approved in writing by the Local Planning Authority before any roofing commences.

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

7. Prior to the commencement of any works to the Tithe Barn, a sample area of the proposed re-pointing on the barn shall be submitted to and approved in writing by the Local Planning Authority.

REASON: To preserve the architectural integrity of the Listed Building.

8. Prior to the commencement of any works to the Tithe Barn, a sample panel of the proposed stone tiles proposed for repairs to the roof shall be submitted to and approved in writing by the Local Planning Authority.

REASON: To preserve the architectural integrity of the Listed Building.

9. No dwelling hereby approved shall be occupied until the means to ensure a maximum water consumption of 110 litres use per person per day, in accordance with policy OS3, has been complied with for that dwelling and retained in perpetuity thereafter.

REASON: To improve the sustainability of the dwellings in accordance with policy OS3 of the West Oxfordshire Local Plan 2031.

10. Prior to any demolition and the commencement of the development a professional archaeological organisation acceptable to the Local Planning Authority shall prepare an Archaeological Written Scheme of Investigation, relating to the application site area, which shall be submitted to and approved in writing by the Local Planning Authority.

REASON: To safeguard the recording of archaeological matters within the site in accordance with the NPPF (2021).

11. Following the approval of the Written Scheme of Investigation referred to in condition 10, and prior to any demolition on the site and the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority within two years of the completion of the archaeological fieldwork.

REASON: To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with the NPPF (2021).

12. 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 tests should be carried out for

each soakage pit as per BRE 365 with the lowest infiltration rate (expressed in m/s) used for design. The development shall be carried out in accordance with the approved details prior to the first occupation of the development hereby approved. 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 West Oxfordshire 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.

- 13 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 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

- 14 The development shall be completed in accordance with the recommendations of Section 5 of the Ecological Impact Assessment Report dated 14/02/2022 and prepared by Wildwood Ecology as submitted with the application. All the recommendations in relation to working practices and enhancement features shall be implemented in full according to the specified timescales or prior to first occupation of the dwelling, whichever comes first, unless otherwise agreed in writing by the local planning authority.

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

- 15 Details of any external lighting, including measures to control light spillage, shall be submitted to and approved in writing by the Local Planning Authority before first occupation of the dwelling hereby approved. Development shall be carried out in accordance with the approved details and thereafter permanently maintained as agreed. No further lighting shall be thereafter installed.

REASON: In the interests of visual amenity and to minimise light spillage into wildlife corridors.

- 16 All works affecting the fabric of the Tithe Barn shall be undertaken in strict accordance with the 'Tithe Barn Repairs Schedule' (Rev B) dated 28.06.2022 unless otherwise agreed in writing with the Local Planning Authority.

REASON: To ensure that parts of the original building are properly protected and conserved during works.

## INFORMATIVES :-

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
- Oxfordshire County Council's Local standards and guidance for surface water drainage on major development in Oxfordshire (V1.2 December 2021)
- The local flood risk management strategy published by Oxfordshire County Council 2015 - 2020 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.

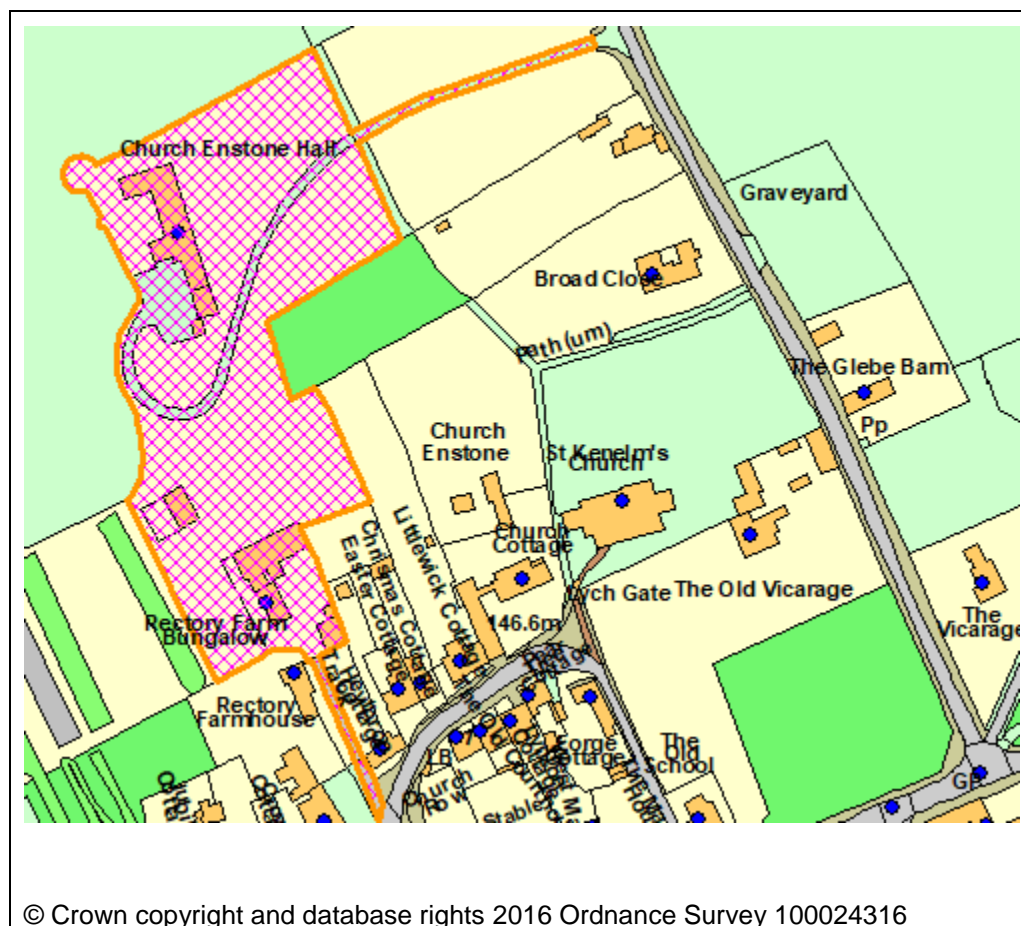
**Contact Officer:** James Nelson

**Telephone Number:** 01993 861712

**Date:** 10th August 2022

Application Number	22/00582/LBC
Site Address	Church Enstone Hall Little Tew Road Church Enstone Chipping Norton Oxfordshire OX7 4NL
Date	10th August 2022
Officer	James Nelson
Officer Recommendations	Approve
Parish	Enstone Parish Council
Grid Reference	437824 E 225212 N
Committee Date	22nd August 2022

### Location Map



## Application Details:

Internal and external alterations to Tithe Barn to include replacement of existing doors and the removal of the attached bungalow

## Applicant Details:

Mr And Mrs Cornet De Ways Ruart  
Rectory Farm  
Church Enstone Hall  
Little Tew Road  
Oxfordshire  
Church Enstone  
OX7 4NL

## I CONSULTATIONS

Conservation Officer

With respect to the fine Grade II\* listed monastic tithe barn, these proposals are all eminently supportable. The existing bungalow is a major blight, greatly detracting from the barn, and removal is heartily to be welcomed - and the new cottage, in principle, is a price worth paying, in my view. Otherwise, the proposals for the barn are all supportable - subject to samples of the new stone tiles. And note that they are removing the concrete floor and substituting breathable limecrete - again, very welcome. But one thing that needs more thought is that there is an important date stone set into the east wall of the barn - which would become external when the bungalow is removed, and thus exposed to weather for the first time in many years. They need a specialist conservator's report on the condition of this, and also recommendations for any action that needs to be taken.

*Schedule of works subsequently provided*

Parish Council

No Comment Received.

Historic England

Where on a site the asset is dual designated i.e. listed and scheduled, it is the scheduling legislation that takes precedence and therefore LBC is not required. All works to the asset - in this case the tithe barn - will be controlled and monitored through scheduled monument consent (SMC).

It is my view that LBC should not be sought for these proposals (unless there is a different trigger) and that the LBC should be withdrawn. The planning application should suffice in this instance and I shall respond to that in due course.

*Officers consider that LBC is required as the bungalow to be demolished is attached to the listed building (and likely was at time of listing) and not*

*within the scheduled monument.*

## **2 APPLICANT'S CASE**

### **2.1 Design and Access Statement/Heritage Report**

- 2.1.1 The applicant has submitted a Design and Access Statement to support the application. The key points are summarised below, the full document is available to view on the Council's website.
- 2.1.2 Rectory Farm at is an important and highly sensitive site, which requires a sympathetic and imaginative design solution to ensure not only the protection of the setting of the Tithe Barn, but also improvements in its visual appearance to the village of Church Enstone immediately to the south.
- 2.1.3 This proposal represents a unique and exciting opportunity to complete the site masterplan; to include the sensitive repair of the Tithe Barn, the removal of the bungalow to facilitate the wider view from the public access point to be corrected, and restore it to its historically correct form.
- 2.1.4 Involvement with Heritage Professionals, Ecologists and Archaeologists with diligent historical research and evaluation, as well as careful design development, has produced a considered solution for the site which is of the highest quality, and is to the benefit of all stakeholders both now and in the future.
- 2.1.5 The proposal can also be seen to align with local and national planning policy: through a combination of extensive research and appreciation of vernacular design along with careful positioning within the site, we are confident that the design is of high quality, enhances its immediate setting (and vastly enhances the views of the barn) and is sensitive to the defining characteristics of the local area.
- 2.1.6 Given the significance of this site and respective heritage assets, great weight is given to its conservation and therefore the repair of the Tithe Barn should be welcomed. The localised stone repairs and French drains are holistic solutions to the damp which is caused by the external ground levels.
- 2.1.7 The bungalow exacerbates an unfortunate and detrimental impact on the historic Tithe Barn, masking its evidential and aesthetic significance. By relocating the replacement dwelling, it restores and fully opens up the south-east elevation of the barn (the key public vantage point), improving its evidential and aesthetic significance along with ensuring that views from the rear of the Rectorial Tithe Barn outwards over the remnant of the formal garden with terraces, fish pond and gravel walks are respected.
- 2.1.8 Overall, we feel that the proposals have a long term benefit to the site and on the heritage assets at the site including the setting of the Scheduled Ancient Monument/Grade II\* Listed Barn.
- 2.1.9 As such, the proposal is contrary to Policies OS2, OS4, EH9, EH11, and EH15 of the adopted West Oxfordshire Local Plan 2031, the West Oxfordshire Design Guide 2016, the National Design Guide, and the relevant paragraphs of the NPPF 2019.

### **3 THIRD PARTY REPRESENTATIONS**

- 3.1 A single comment in support of the scheme has been received. The comment references the heritage benefits that would be accrued through the removal of the bungalow and repairs to the Barn.

### **4 PLANNING POLICIES**

OS4NEW High quality design

EH9 Historic environment

EH11 Listed Buildings

NPPF 2021

DESGUI West Oxfordshire Design Guide

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

## **3 5 PLANNING ASSESSMENT**

### **5.1 Introduction**

- 5.1.1 This application seeks Listed Building Consent (LBC) at Church Enstone Hall, Little Tew, Road, Church Enstone for:

*"Internal and external alterations to Tithe Barn to include replacement of existing doors and the removal of the attached bungalow."*

- 5.1.2 The Tithe Barn may date from the C14 and is Grade II\* listed and designated as a Scheduled Monument.

- 5.1.3 The proposals include:

- Removal of modern bungalow attached to the Tithe Barn;
- Repairs to the existing roof tiles and 'torching' the existing slates;
- Stonework repair;
- Reopening of triangular openings;
- Installation of a French drain; and
- Replacement of concrete floor and polythene DPM with limecrete floor slab.

### **5.2 Impact upon the Listed Building**

- 5.2.1 LBC applications are not subject to section 38(6) of the Planning and Compulsory Purchase Act 2004. Accordingly, the application does not need to be determined in accordance with the development plan. Rather, applications must be determined in accordance with section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). Given the relevance of Local Plan Policies OS4, EH9 and EH11 to this proposal, these policies and the supplementary guidance contained in the West Oxfordshire Design Guide 2016 (an adopted SPD) are material considerations in this assessment, as is the NPPF 2021.

- 5.2.2 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. Paragraph 194 requires the applicant to describe the significance of affected heritage assets. 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.

- 5.2.3 The application has been furnished with a comprehensive heritage statement, which has provided an assessment of the significance of the Tithe Barn and impact of the proposals upon this significance. Given the scale and nature of the proposed changes, officers consider that the assessment provided allows the LPA to fully assess the impact on the proposal in line with paragraph 194 of the NPPF.
- 5.2.4 In order to identify the potential impact of the proposal upon the significance of designated heritage assets, it is first necessary to identify and assess the particular significance of the assets as directed in NPPF Paragraph 195. In this case, the principle heritage asset that would be affected is the C14 Rectorial Tithe Barn, which is Grade II\* listed.
- 5.2.5 The heritage significance of the Tithe Barn is largely derived from its historical, cultural and social contribution to the area, together with its architectural significance as a very well preserved and fine example of a late medieval tithe barn.
- 5.2.6 Following consultation with the LPA's highly qualified and experienced Conservation and Design Architect, your officers share this view as the existing bungalow detracts significantly from the setting of the Tithe Barn and partially obscures its historic form. Therefore, its removal is considered to result in a significant improvement to the setting of the Barn.
- 5.2.7 The proposed works to the Tithe Barn itself are also considered to result in a positive impact upon the Grade II\* listed barn. The works are largely non-intrusive and would conserve and reinstate the Barn whilst securing its long term future through improved drainage and works to secure the roof. Further, the proposed replacement floor would be breathable, thereby minimising impact upon the historic fabric of the building. A works schedule has also been provided to detail how historic fabric will be protected. Therefore, this element of the scheme also results in a direct benefit in heritage terms.
- 5.2.8 Your officers are therefore satisfied that the works proposed will enhance the special architectural and historic interest of the listed building in accordance with Section 16(2) of the 1990 Act and the significance of the designated heritage asset will be sustained, in accordance with Section 16 of the NPPF.

### **5.3 Protected Species**

- 5.3.1 Bats and their roosts are protected under the Wildlife and Countryside Act 1981 (as amended). The Conservation of Habitats and Species Regulations 2017 (as amended) (9(1)) impose a duty in relation to 'functions which are relevant to nature conservation...so as to secure compliance with the requirements of the Directives as set out in Schedule 2.



- 5.3.2 Whilst there is no express mention of protected species within Section 16 of the Act, your officers consider that the granting of listed building consent should not circumnavigate the requirements of the Conservation of Habitats and Species Regulations. Therefore, the potential impact of the proposed works upon protected species is a material consideration in this assessment.
- 5.3.3 In this regard, the application has been furnished with a protected species report, which concludes that subject to the implementation of mitigation, compensation, and enhancement strategies as detailed in the Report, the proposed development would accord with national legislation with regard to protected species. Officers therefore recommend that should Members resolve to approve the application, a planning condition is imposed to ensure that all working practices and enhancement features as detailed in the Report are implemented in full. Subject to the imposition of planning conditions, your officers conclude that the application is acceptable in ecological terms.

## **5.4 Recommendation**

- 5.4.1 In light of this assessment and having paid special regard to the desirability of preserving the building, its setting, and any features of special architectural or historic interest it may possess, the works are considered to preserve the special character, setting and significance of the listed building. As such, your officers recommend that LBC should be granted subject to conditions.

## **6 CONDITIONS**

1. The works must be begun not later than the expiration of three years beginning with the date of this consent.

REASON: To comply with the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. Prior to the commencement of any works to the Tithe Barn, a sample area of the proposed re-pointing on the barn shall be submitted to and approved in writing by the Local Planning Authority.

REASON: To preserve the architectural integrity of the Listed Building.

3. Prior to the commencement of any works to the Tithe Barn, a sample panel of the proposed stone tiles proposed for repairs to the roof shall be submitted to and approved in writing by the Local Planning Authority.

REASON: To preserve the architectural integrity of the Listed Building.

4. All works affecting the fabric of the Tithe Barn shall be undertaken in strict accordance with the 'Tithe Barn Repairs Schedule' (Rev B) dated 28.06.2022 unless otherwise agreed in writing with the Local Planning Authority.

REASON: To ensure that parts of the original building are properly protected and conserved during works.

5. The development shall be completed in accordance with the recommendations of Section 5 of the Ecological Impact Assessment Report dated 14/02/2022 and prepared by Wildwood Ecology as submitted with the application. All the recommendations in relation to working practices and enhancement features shall be implemented in full according to the specified timescales or prior to first occupation of the dwelling, whichever comes first, unless otherwise agreed in writing by the local planning authority.

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

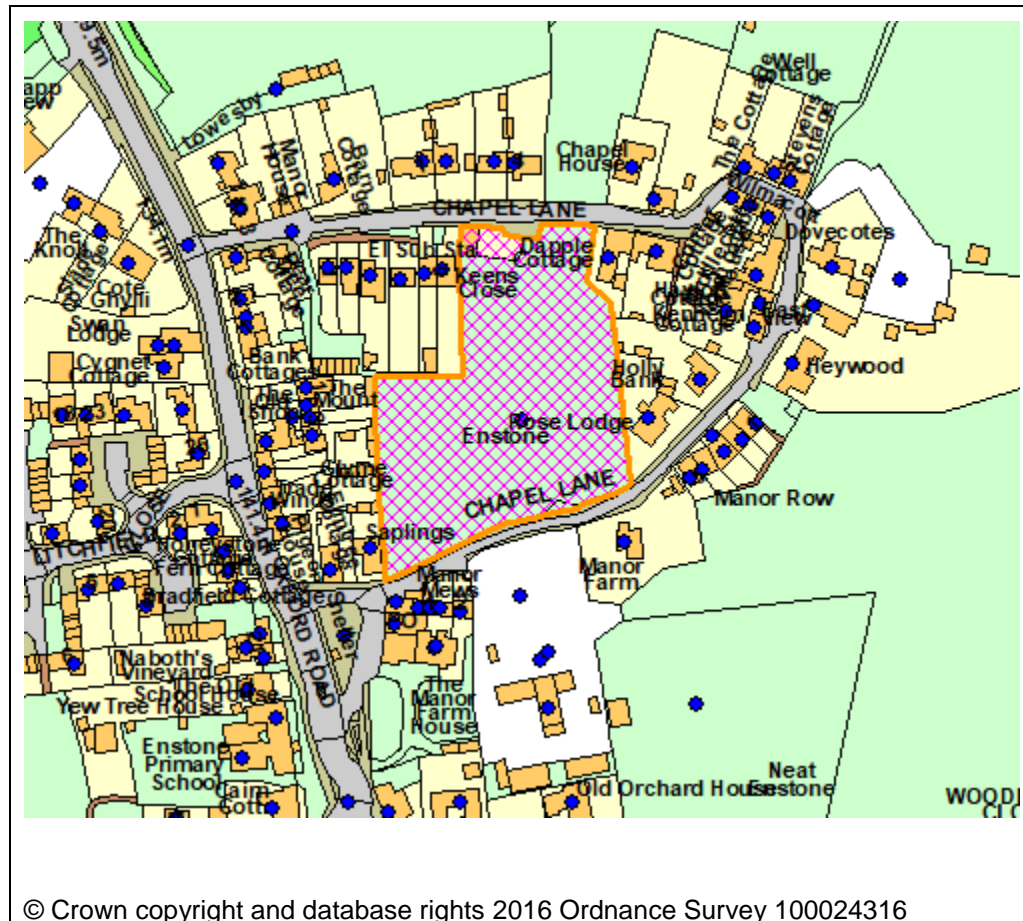
**Contact Officer:** James Nelson

**Telephone Number:** 01993 861712

**Date:** 10th August 2022

Application Number	22/00838/OUT
Site Address	Land At Chapel Lane Enstone Oxfordshire
Date	10th August 2022
Officer	Stephanie Eldridge
Officer Recommendations	Approve
Parish	Enstone Parish Council
Grid Reference	437725 E 224364 N
Committee Date	22nd August 2022

### Location Map



## **Application Details:**

Outline planning permission for residential development (up to 8 dwellings), access, parking, public open space, landscaping and associated development infrastructure. (Some matters reserved)

## **Applicant Details:**

Messrs N J and P N Melrose

## **I CONSULTATIONS**

Parish Council

Following a public meeting on 23rd May 2022, attended by 39 parishioners and 6 parish Councillors, the following observations have been made which has led to Enstone Parish council voting to object to the planning application:

Highways:

1. Chapel Lane is a narrow single track road and the Parish Council feels it unsuitable for accommodating such a development, due to the increased traffic from residents and delivery trucks, especially during the proposed build.
2. There would be insufficient room for trucks containing building materials to negotiate the narrow lane and turn into the field, especially trucks carrying roof trusses. Access to the south side of the site from the A44 is difficult by the village green, and there is insufficient room for trucks to rejoin the A44 outside the village shop when leaving site. A one way system needs to be formally adopted by the village green and shop.
3. At the north side of the site there are also access issues as parked cars limit the width of vehicle that can pass along the lane and these will also limit any space needed to turn into the site.
4. The proposed barrier separating the two ends of the site will also increase delivery vans/trucks needing to negotiate the entire length of Chapel Lane.

Ecology:

1. The Parish council feels that the ecology report does not represent the reality of the risk to the ecology on the site. The report claims that the site is suitable for establishing a wild flower meadow on the east side, but this is questioned as it has been used for grazing cattle and sheep for many years,

so is very fertile, as represented by diverse range of flora supporting an ecosystem for wildlife including, but not limited to, the following red list species: starlings, swallows, house sparrows, swifts, thrushes and hedgehogs.

2. It has also been highlighted that the report mentioned urban birds, but there was no mention of any of these red list species.
3. The proposed site acts as a wildlife corridor for species that are passing to the river Glyme and are channeled by existing urban developments and the A44.
4. The report states that there is no record of badgers within 1km of the site which contradicts advice given to WODC for a previous nearby planning application, 21/00087/FUL. Planning application 21/00087/FUL includes an email to WODC advising that there are records of badgers and other protected species around that site. The site for application 21/00087/FUL sits NNE of the Chapel Lane site and is less than 1km away.
5. It was noted that the ecological survey was undertaken when the field had just been cut, so does this allow a true reflection of the ecology to be gained?
6. The Parish Council feel that this demonstrates that the ecology report has not given full consideration of the impact of the proposed development to the ecology.
7. There is no mention of the drystone wall surrounding the site which is a habitat for many species.
8. The planning consultant has not adequately explained how the proposed development would produce a net gain to diversity.
9. Who would be responsible for maintaining the drystone walls if the application was successful?

#### Design & Layout:

The design and layout for the proposed development does not allow spaces for sufficient parking. Parking is already hugely limited in and around Chapel Lane and it is felt that the the planning consultants have failed to properly address this issue despite several consultation meetings where this was repeatedly highlighted.

#### Landscape:

1. This piece of land is an important part of Enstone and

especially for the residents of Chapel Lane. It is an oasis of wildlife a short distance from the busy A44 that gives character to this part of Enstone. As such, the planning consultants have failed to reveal any benefits to the village caused by the loss of this open green space.

2. The loss of the open view will have a considerable impact on the residents in an around Chapel Lane.
3. It has also been noted that Mr. Tait claimed to not know of previous planning applications that have been refused for the same site over the last 30 years. Why did these applications not succeed in offering benefits to the community and what makes this one offer benefits now?

#### Increase danger of flooding:

The Parish council are still concerned about the risk of flooding caused by such development as there was insufficient detail to explain how water would not run down the slope from the hard surfaces of the developed site onto the north side of Chapel Lane. Has consideration been taken regarding the drainage and sewage and what will be done to deal with storm water?

#### Other:

1. The Parish Council are concerned about the proposed development process, whereby some properties will be constructed by a developer and others would be sold as self-build plots. This could lead to a prolonged construction period as self-builders may find that completion of construction can only be done in phases as finances allow, which would be further disruption to the surrounding residents.
2. The Parish Council are also concerned that this development process could see self-builders buying a plot and then seeking to amend the planning permission from one property to two, putting further pressure on the surrounding residents and further adding to parking challenges.
  - Results of vote at public meeting:
  - Parishioners: 39 against; 0 in favour
  - Parish Council: 6 against; 0 in favour

In summary, Enstone Parish Council strongly object to this planning application. The Parish Council would ask that another ecology report is undertaken and that WODC visit the site to assess the access and parking challenges. If, however, the application succeeds, the Parish Council request that one way system should be established by the

village shop and green and that further consideration is given to parking spaces.

Conservation Officer

No Comment Received.

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:

- G11 access specification inc vision splays
- Prior to first occupation the widening of Chapel lane carriageway together with the proposed parking bays , as shown on P20046 001D, in accordance with a scheme to be submitted and approved.

INFORMATIVE:

Please note works are required to be carried out within the public highway, the applicant shall not commence such work before formal approval has been granted by Oxfordshire County Council by way of legal agreement between the applicant and Oxfordshire County Council.

WODC Env Health - Uplands

No objection.

Thames Water

No Comment Received.

District Ecologist

No Comment Received.

WODC Drainage Engineers

No objection subject to all comments above being taken on board and the proposed pre-commencement surface water condition being adhered to in full.

Newt Officer

No Comment Received.

## **2 REPRESENTATIONS**

2.1 18 letters of support have been submitted in respect of this application. The comments mainly relate to:

- Provision of affordable housing for younger people and/or first time buyers;
- Net gain in biodiversity;
- Area of open space for public to use;
- Design in-keeping with the area;
- No adverse flood risk;
- Would deliver improvements to highways;
- Good use of an unused site.

2.2 163 letters of objection have been received. The comments mainly relate to:

- Adverse impact on biodiversity;
- Loss of open space which contributes to visual amenity, landscape character and public well-being;
- Increased parking pressure;
- Increased use of dangerous road and junction;
- Adverse impact on neighbours;
- Increased flood risk;
- Not truly affordable housing;
- Chapel Lane unsuitable for construction traffic.

## **3 APPLICANT'S CASE**

3.1 The Planning Statement is concluded as follows:

3.1.1 The proposed development is of a modest scale and in such a regard, sensitively addresses site specific development issues including such matters as site access and traffic, neighbouring residential amenity, minimising impacts on the local environment and eliminating any flood risk with suitable sustainable drainage. The number of houses proposed, as well as the nature, scale and location of the proposed housing on the site has been carefully considered relative to this outline planning stage.

3.1.2 The development can duly mitigate any impacts and be accommodated without putting any undue pressure on existing services or facilities.

3.1.3 The development brings with it a range of local benefits including;

- A mixed range of homes including affordable homes
- New parking for the village shops
- Safe accessibility with priority for pedestrians
- Public open space for all to use, making a significant proportion of the site open and available for public access for the first time
- Protection of key views across the site



- New pedestrian connections through and across the site, enhancing local pedestrian safety by removing the need for villagers to walk on Chapel Lane which doesn't have footways and improves connectivity north and south from each end of Chapel Lane, providing convenient access to the shops and school
- New enhanced tree and other landscape planting
- A net gain of 10% in biodiversity with opportunities for sustainable drainage and areas managed for ecology interest
- A high quality development which will make a positive contribution to the character of the village. The proposals are in line with the Development Plan and the National Planning Policy Framework, and represent sustainable development. In such circumstances planning permission should be granted.

#### **4 PLANNING POLICIES**

OS2NEW Locating development in the right places

OS4NEW High quality design

H1NEW Amount and distribution of housing

H2NEW Delivery of new homes

H6NEW Existing housing

EH2 Landscape character

EH3 Biodiversity and Geodiversity

T1NEW Sustainable transport

T2NEW Highway improvement schemes

T3NEW Public transport, walking and cycling

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

#### **5 PLANNING ASSESSMENT**

- 5.1 The application seeks outline planning permission for the erection of up to eight dwellings with the associated access, landscaping and public open space with all other matters reserved (appearance, layout and scale).
- 5.2 The application site is situated off Chapel Lane, consisting of undeveloped land within the built up area of Enstone Village. The site covers 0.65 hectares and is made up of gently sloping agricultural paddock land, surrounded on all four sides by existing built form, primarily of a residential nature.
- 5.3 Chapel Lane provides a loop with both ends providing access onto Oxford Road; the main A44 through the village. To the north and south, the boundaries are formed by existing dry stone walls running along Chapel Lane. To the east and west, the boundaries are formed by the rear gardens of residential properties within the village.
- 5.4 The site does not fall within any special designated areas of control.
- 5.5 The application is before Members of the Uplands Planning sub-committee for consideration as Enstone Parish Council raised objections to the scheme. The application was deferred at the July 2022 meeting to enable Members of the sub-committee to carry out a site visit prior to the determination of the application.

## **Principle**

- 5.6 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. Section 70 (2) of the Town and Country Planning Act 1990 provides that the local planning authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations. In this case, the Development Plan is the Local Plan 2031 adopted in September 2018. Development which is not in accordance with an up-to-date development plan should be refused unless material considerations indicate otherwise.
- 5.7 Enstone is classified in the Local Plan 2031 as a village, which is suitable for limited development which respects the village character and local distinctiveness and would help to maintain the vitality of the community (policy OS2). Housing Policy H2 states that new dwellings will be permitted 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 set out in Policy OS2.
- 5.8 Policy OS2 states that villages such as Enstone are suitable for limited development, which respects the village character and local distinctiveness and would help maintain the vitality of these communities. The general principles set out in OS2 state, inter alia, that development should form a logical complement to the existing scale and pattern of development and/or character of the area; be of a proportionate and appropriate scale to its context; not involve the loss of an area of open space or other features that makes an important contribution to the character and appearance of the area and conserve and enhance the natural, historic and built environment.  
As such, the proposal is assessed against the general principles of Policy OS2 in more detail below.

## **Layout, Appearance and Scale**

- 5.9 This application seeks outline planning permission with most matters reserved other than the access and landscaping (including the area of public open space). Therefore, matters of layout, appearance and scale would be dealt with at the reserved matters staged if members are minded to approve the outline application.
- 5.10 Illustrative plans have been submitted showing the provision of two accesses on the northern and southern boundaries of the site on to Chapel Lane with eight dwellings (four detached houses and two sets of semi-detached pairs) located in the western half of the site. The plans also show a footpath running through the site connecting the two sides of Chapel Lane with a significant area of public open space with landscaping to the east. It is indicated on the plans that the Cotswold dry stone walling would be proposed within the site alongside wildflower meadow planting, native trees and shrubs and potentially a pond to encourage biodiversity.
- 5.11 Illustrative views within the Design and Access Statement show two storey dwellings and it is indicated that the traditional vernacular styles and material palettes taken from existing built form in Enstone will guide the final design treatments within the development. This includes weathered stone, slate roofs, chimneys and traditional pitched dormer windows.

- 5.12 Your officers acknowledge that the existing parcel of land, while not public space, does provide a historic area of open space which makes an important contribution to the character and appearance of the Chapel Lane; a key feature being the view east from the existing farm gate in the south western corner of the site.
- 5.13 While the plans are only illustrative at this stage, your officers are of the opinion that the drawings indicate that eight dwellings, in a range of sizes and types, can be comfortably accommodated within the site with adequate parking and amenity space, alongside a significant parcel of public open space and landscaping which would retain the spacious nature of the site and open views from one end of Chapel Lane through to the other. Further, your officers note that the existing site is private agricultural land and the proposed scheme would open up this plot to provide a significant area of public open space for use by the community. The provision of a footpath through the site would also improve connectivity between the two sides of Chapel Lane providing a new route away from the single track lane.
- 5.14 In light of the above, the application is considered to be acceptable in these terms subject to a legal agreement to secure the public open space and details of its management.

### **Access**

- 5.15 Two access are proposed off Chapel Lane- one along the Northern boundary and one to the South. Four parking spaces for use by the village are proposed along the Southern boundary with Chapel Lane. It is proposed that these spaces are set back to allow enough carriageway width to enable cars to manoeuvre in and out of spaces. Localised widening of Chapel Lane along part of the Southern boundary is also proposed from the western boundary up to the new access.
- 5.16 Your officers note the concerns raised by locals about increased traffic along Chapel Lane and a more intensive use of the junctions with the A44. However, the Local Highway Authority has raised no objections to the application stating that the development, if permitted, will not have a significant detrimental impact (in terms of highway safety and convenience) on the adjacent highway network and recommends conditions relating to the access, widening of the Chapel Lane carriageway and village parking bays. The widening of Chapel Lane would be secured via a S278 legal agreement.

### **Residential Amenity Impact**

- 5.17 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. Concerns have been raised in respect of potential overlooking and loss of privacy. This is an outline application with detailed matters such as layout and appearance reserved for later consideration. It is considered that the siting and detailed design of the dwellings could ensure that there are no amenity issues resulting from the development.

### **Biodiversity**

- 5.18 One of the key concerns raised by locals in the objections received relates to the loss of biodiversity on the site. Policy EH3 of the West Oxfordshire Local Plan 2031 states that the biodiversity of West Oxfordshire shall be protected and enhanced to achieve an overall net gain in biodiversity and minimise impacts on geodiversity, including by minor applications

demonstrating a net gain in biodiversity where possible. All developments will be expected to provide towards the provision of necessary enhancements in areas of biodiversity importance.

- 5.19 An ecological appraisal of the site has been submitted and the indicative plans show a significant area of the site retained as public open space with a wildflower meadow, native planting, and the potential for an ecology pond. Using the DEFRA 3.0 Biodiversity Impact Assessment calculation tool the submitted report suggests that the proposed development would result in a 10.01% overall net gain for biodiversity (including habitat retention, creation and enhancements). Further, an e-DNA survey for Great Crested Newts (GCN) has been submitted in support of the application. The result of the report is 'negative' for GCN's and therefore GCN's are absent from the local area. The ecologist also advises that the nearest pond (which is located 130m north of the site) is relatively recent (created post 2010) with limited opportunities for colonisation.
- 5.20 The Council's Ecologist has raised no objections to the proposal subject to a number of conditions including the submission of a Construction Environmental Method Statement and a Landscape and Ecological Management Plan to secure the delivery of the ecological mitigation measures and enhancements to achieve the net gain in biodiversity on the site.

### **Flood Risk**

- 5.21 Concerns have been raised in respect of drainage and potential flooding. The site lies within Flood Zone 1 in an area at very low risk from fluvial flooding and the Council's Drainage Officer has raised no objection to the application subject to the imposition of a surface water drainage condition. Foul drainage matters would be dealt with by Thames Water.

### **Other Matters**

- 5.22 While, in accordance with Policy H3 of the Local Plan, based on the information provided there is no requirement for affordable housing as only eight dwellings are proposed (the trigger is 11 or more units or which have a max combined floor space of more than 1000m<sup>2</sup>), your officers note that it is specified that two of the proposed dwellings are offered as affordable housing which could be delivered by adopting the Government's First Homes Initiative where a 30% discount to open market value would be preserved on these two properties in perpetuity. This is welcomed by your officers and will be secured via a legal agreement if Members were minded to approve the application.

### **Conclusion**

- 5.23 Taking into account the above matters, the proposal is considered acceptable on its merits and complies with Policies OS2, OS4, H2, H6, EH2, EH3, T1, T2, and T3 of the West Oxfordshire Local Plan 2031, the relevant paragraphs of the NPPF and the West Oxfordshire Design Guide 2016, subject to the relevant legal agreements.

## **6 CONDITIONS**

- I (a) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission;
- and

(b) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

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

- 2 Details of the Appearance, Landscaping, Layout and Scale, (herein called the reserved matters) shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.

REASON: The application is not accompanied by such details.

- 3 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.

- 4 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.

- 5 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 West Oxfordshire 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.

- 6 No dwelling hereby approved shall be occupied until the means to ensure a maximum water consumption of 110 litres use per person per day, in accordance with policy OS3, has been complied with for that dwelling and retained in perpetuity thereafter.

REASON: To improve the sustainability of the dwellings in accordance with policy OS3 of the West Oxfordshire Local Plan 2031.

- 7 Prior to the commencement of development, a Construction Environmental Method Statement shall be submitted to and approved in writing by the Local Planning Authority in accordance with the principles and recommendations set out in the Ecological Assessment. These shall include details of precautionary methods of working to protect badger, nesting birds, hedgehog and other species from harm during works, measures for storage and disposal of waste (including vegetation and soils containing Schedule 9 invasive plant species), measures to ensure no Schedule 9 species can spread to the adjacent wildlife site. The Plan shall include full details of compensation and enhancement measures for species including the provision of bird and bat boxes and habitat connectivity measures for hedgehogs. Works shall be implemented in strict accordance with the approved methodology including timescales, unless otherwise agreed in writing.

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

- 8 Prior to the commencement of development, a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority in accordance with the principles and recommendations set out in the Ecological Assessment. The Plan shall cover a period as appropriate for the delivery of biodiversity net gain. The Plan shall include measures for establishment, enhancement and management of habitats and open spaces within the site. It shall include details of planting including schedules to provide linkages and connectivity to the wider landscape. This shall include a timetable for management activities as well as a monitoring schedule and shall be fully implemented.

REASON: To enhance biodiversity in accordance with paragraphs 174, 179 and 180 of the National Planning Policy Framework (Chapter 15), Policy EH3 of the West Oxfordshire Local Plan 2031, the Environment Act 2021 and in order for the Council to comply with Part 3 of the Natural Environment and Rural Communities Act 2006

#### INFORMATIVES :-

- I. 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/>

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

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

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

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

3. 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
  - Oxfordshire County Council's Local standards and guidance for surface water drainage on major development in Oxfordshire (V1.2 December 2021)
  - The local flood risk management strategy published by Oxfordshire County Council 2015 - 2020 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).

**Contact Officer:** Stephanie Eldridge

**Telephone Number:**

**Date:** 10th August 2022