



REFERENCE NO	PARISH/WARD	DATE RECEIVED
17/03292/APP	WHITCHURCH The Local Member(s) for this area is/are: - Councillor Mrs J Blake	29/08/17
Construction of partially underground Passivhaus with ground source heat and detached storage building with associated external parking and access (amendment to planning approval 15/02903/APP)		
Land Adj Wayside Oving Road Mr Stephen Green		
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1.0 The Key Issues in determining this application are:-

a) The planning policy position and the approach to be taken in the determination of the application.

b) Whether the proposal would constitute a sustainable form of development having regard to:

- Building a strong competitive economy
- Promoting sustainable transport
- Delivering a wide choice of high quality homes
- Good design
- Promoting healthy communities
- Meeting the challenge of climate change and flooding
- Conserving and enhancing the natural environment
- Conserving and enhancing the historic environment

c) Impact on residential amenity.

The recommendation is that permission be **GRANTED**

2.0 CONCLUSIONS – THE PLANNING BALANCE

2.1 The application has been evaluated against the extant Development Plan and the National Planning Policy Framework (NPPF) and the report has assessed the application against the core planning principles of the NPPF and whether the proposals deliver sustainable development.

- 2.2 Given the contravention of one policy of the development plan (policy RA14) and compliance with all other policies of the plan, officers consider that overall the development complies with the development plan. Additionally, Policies RA13 and 14 of the AVDLP are not up to date as set out below and are to be given very limited weight.
- 2.3 The presumption in favour of sustainable development in paragraph 14 of the NPPF is not initially engaged because “specific policies in the NPPF indicate that development should be restricted”. This is because the development is in an Area of Attractive Landscape (AAL) which is a ‘valued landscape’ for the purposes of footnote 9 to paragraph 14 of the NPPF. If the non-tilted balancing process indicates that development should nevertheless be granted, the tilted balance contained in paragraph 14 may then be carried out.
- 2.4 In considering the benefits of the development, the development would make a contribution to the housing land supply albeit of limited weight due to the scale of the proposed development and the fact that the Council can demonstrate a 11.7 year housing land supply. There would also be economic benefits in terms of the construction of the development itself and those associated with the resultant increase in population on the site and the support it could provide to local community facilities in Whitchurch. These represent modest further benefits associated with the development.
- 2.5 Overall, it is considered that due to the scale and design of the new dwelling and the mitigation proposed, the proposal would protect the landscape character of the Area of Attractive Landscape (AAL).
- 2.6 For the reasons set out in the evaluation section of this report, there are material differences between the previous applications/appeals which have been refused/dismissed on the site and the current scheme, notably its modest projection above existing ground levels and the introduction of a green sedum roof which would maintain the open, landscaped appearance of the site. These factors were not in play at the time of the previous applications and appeals on the site which involved conventionally designed single and two storey properties which were to be built off existing ground levels.
- 2.7 Compliance with some of the other core planning principles of the NPPF have been demonstrated in terms of accessibility, its landscape impact including its effect on the AAL, biodiversity, heritage, flood risk, highway safety and convenience, parking and residential amenity. However, these matters do not represent benefits to the wider area but demonstrate an absence of harm to which weight should be attributed neutrally. No adverse impacts have been identified in this case.

2.8 Officers have considered the question of whether the development should be permitted on a neutral basis (ie not on the tilted balance contained in paragraph 14). The benefits and adverse impacts are carefully weighed in the planning balance and it is considered that overall the benefits outweigh adverse impacts and the proposal would constitute sustainable development. Given the lack of harm to the AAL, Officers consider that if the tilted balance is not applied the benefits of the proposal weigh in favour of the proposal.

2.9 In those circumstances, the remainder of the application may be considered in accordance with the tilted balance contained in paragraph 14. This means that permission may be granted unless any adverse impacts of doing so would “*significantly and demonstrably*” (our emphasis) outweigh the benefits. Officers do not consider that any impacts of this development would significantly and demonstrably outweigh the benefits.

Even if it is considered that the development is contrary to AVDLP Policy RA14 this policy is to be given very limited weight because it is out of date against the NPPF and inconsistent with the NPPF objectives for the reasons given in the overview report and officers consider that the material considerations set out in this report are considered to justify the development in spite of the contravention of this policy in the development plan. , this policy has consistently been regarded as o

2.10 The development complies with the development plan and there are no material considerations indicating that development should be refused. Weighing all the relevant factors into the planning balance, and having regard to the NPPF as a whole, all relevant policies of the AVDLP and third party representations, it is considered that the application should be approved. It is therefore recommended that the application be APPROVED subject to the following 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(1) of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2) The development hereby permitted shall be carried out in accordance with amended Drawing Nos SJG/001 Rev A and SLG/003 Rev A received on 11.10.2017.

Reason: To define the permission and in the avoidance of doubt.

3) The materials to be used on the external surfaces of the development shall be as indicated in the application unless otherwise approved in writing by the Local Planning Authority. Please also see note no. 5 on the back of this notice.

Reason: To ensure a satisfactory appearance to the development and to accord with Aylesbury Vale District Local Plan policies GP8, GP35, RA2 and RA8 and advice in the National Planning Policy Framework.

4) The hard surfaced parking area hereby permitted shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse.

Reason: In order to reduce the risk of flooding and to accord with advice in the National Planning Policy Framework.

5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no enlargement or extension, nor the erection of any outbuilding, shed, garage or other structure, shall be carried out within the curtilage of the dwelling hereby approved, other than as expressly authorised by this permission.

Reason: In order to safeguard the amenities of the area by enabling the Local Planning Authority to consider whether planning permission should be granted for further development within the site area having regard for the particular layout and design of the development and the character of the surrounding area, and to accord with Aylesbury Vale District Local Plan policies GP35, RA2 and RA8 and advice in the National Planning Policy Framework.

6) The dwelling hereby approved shall not be occupied until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. For hard landscape works, these details shall include means of enclosure within and on the boundaries of the site and hard surfacing materials. For soft landscape works, these details shall include identification of all trees, shrubs and hedges to be retained showing their species, spread and maturity, planting plans, and schedules of plants, noting species, plant sizes and proposed numbers/densities. These works shall be carried out in accordance with the approved details within the first planting season following the first occupation of the dwelling.

Reason: In the interests of the visual amenities of the locality and to accord with Aylesbury Vale District Local Plan policies GP35, GP38, GP39, GP40, RA2 and RA8 and advice in the National Planning Policy Framework.

7) Any tree or shrub which forms part of the approved landscaping scheme which within a period of five years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved by the Local Planning Authority.

Reason: In the interests of visual amenities of the locality and to accord with Aylesbury Vale District Local Plan policies GP35, GP38, GP39, GP40, RA2 and RA8 and advice in the National Planning Policy Framework.

8) No development shall take place until details of the proposed floor level of the dwelling hereby approved in relation to the existing and proposed levels of the site and the surrounding land have been submitted to and approved in writing by the Local Planning Authority, with reference to fixed datum point. The building shall be constructed with the approved floor level. Please also see note no. 6 on the back of this notice.

Reason: For the avoidance of doubt and to ensure a satisfactory form of development and to accord with Aylesbury Vale District Local Plan policies GP8, GP35, RA2 and RA8 and advice in the National Planning Policy Framework. This submission and approval is required prior to the commencement of development in order to ensure that appropriate control can be exercised to ensure that the proposed development does not give rise to harm to the local environment.

9) Works on site shall not commence until details of the proposed means of disposal of foul and surface water have been submitted to and approved in writing by the Local Planning Authority. Disposal of surface water shall be in accordance with SuDS principles. The development shall be carried out using the approved scheme of drainage. Please also see note 6 on the back of this notice.

Reason: In order to ensure that the development is adequately drained and to accord with Aylesbury Vale District Local Plan policy GP8 and GP35 and with advice in the National Planning Policy Framework. This submission and approval is required prior to the commencement of development in order to ensure that appropriate control can be exercised to ensure that the proposed development does not give rise to harm to the local environment.

10) Prior to the occupation of the development minimum vehicular visibility splays of 79m measured 2.4m back from the edge of the carriageway from both sides of the new access onto Oving Road shall be provided in accordance with the approved plans and the visibility splays shall be kept clear from any obstruction between 0.6m and 2.0m above ground level.

Reason: In the interests of highway safety, and to accord with the National Planning Policy Framework.

11) No part of the development hereby permitted shall be occupied until the access has been upgraded in accordance with the approved drawing and constructed in accordance with Buckinghamshire County Council's guide note 'Private Vehicular Access Within Highway Limits' 2013.

Reason: In the interests of highway safety, and to accord with the National Planning Policy Framework.

12) Prior to the occupation of the development details of the proposed entrance gates which shall be set back a minimum distance of 6 metres from the edge of the carriageway shall be submitted to and approved in writing by the local planning authority.. The gates shall then be erected, in accordance with the approved details. No gates, fences, walls or other means of enclosure other than those shown on the approved plan shall be erected along the site frontage within 6 metres of the edge of the carriageway.

Reason: In the interests of highway safety, and to accord with the National Planning Policy Framework.

13) The scheme for parking, garaging and manoeuvring indicated on the approved drawings shall be laid out prior to the initial occupation of the dwelling hereby approved and those areas shall not thereafter be used for any other purpose.

Reason: To enable vehicles to draw off, park and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway and to accord with Aylesbury Vale District Local Plan policy GP24, and advice in the National Planning Policy Framework.

INFORMATIVES

1) 'Your attention is drawn to the requirements of conditions on the decision notice. Conditions nos. 8 and 9, impose requirements which must be met PRIOR TO COMMENCEMENT. Failure to observe these requirements could result in the Council taking enforcement action OR MAY INVALIDATE THE PLANNING PERMISSION.

2) In accordance with paragraphs 186 and 187 of the National Planning Policy Framework, the Council, in dealing with this application, has worked in a positive and proactive way with the Applicant / Agent and has focused on seeking solutions to the issues arising from the development proposal. AVDC works with applicants/agents in a positive and proactive manner by offering a pre-application advice service, and updating applicants/agents of any issues that may arise in the processing of their application as appropriate and, where possible and appropriate, suggesting solutions. In this case AVDC has considered the details as submitted and these are considered acceptable.

3) Your attention is drawn to the need to have regard to the requirements of UK and European legislation relating to the protection of certain wild plants and animals. Approval under that legislation will be required if protected habitats or species are affected by development. If protected species are discovered you must be aware that to proceed with

the development without seeking advice from Natural England could result in prosecution. For further information or to obtain approval contact Natural England on 0118 958 1222.

4) If any unexpected contamination is encountered during any phase of the works the District Council's Environment Services Division must be informed immediately and works should cease on site until a remedial strategy has been written and agreed in writing by the District Council. For further information contact Miss Deborah Ferady, Contaminated Land Officer, Tel. 01296 585621.

5) It is an offence under Section 151 of the Highways Act 1980 for vehicles leaving the development site to carry mud onto the public highway. Facilities should therefore be provided and used on the development site for cleaning the wheels of vehicles before they leave the site.

6) No vehicles associated with the building operations on the development site shall be parked on the public highway so as to cause an obstruction. Any such wilful obstruction is an offence under Section 137 of the Highways Act 1980.

7) It is recommended in the interests of the amenities of the area and the occupiers of neighbouring houses that the hours of operation for any works that can be heard outside the site boundary are restricted for construction and site deliveries from 07.30 to 18.00 on weekdays, 08.00 to 13.00 on Saturdays, with no work on Sundays and Bank Holidays.

3.0 WORKING WITH THE APPLICANT/AGENT

3.1 In accordance with paragraphs 186 and 187 of the National Planning Policy Framework, the Council, in dealing with this application, has worked in a positive and proactive way with the Applicant / Agent and has focused on seeking solutions to the issues arising from the development proposal.

AVDC works with applicants/agents in a positive and proactive manner by;

- offering a pre-application advice service,
- updating applicants/agents of any issues that may arise in the processing of their application as appropriate and, where possible and appropriate, suggesting solutions.

In this case discussions have taken place with the Applicant / Agent who responded by submitting amended plans as part of this application which were found to be acceptable and approval is recommended.

4.0 INTRODUCTION

4.1 The application needs to be determined by committee as Oving Parish Council has raised material planning objections and confirms that it will speak at the Committee meeting.

4.2 The application was determined under officers' delegated powers and AVDC granted planning permission on 16 October 2017. Following the decision, a local resident submitted a claim for judicial review of the decision on 23 November 2017. This claim was made on 4 grounds which are summarised below:

- Ground 1: that the decision was ultra vires as the Parish Council had objected to the application and this should have prevented the Council from determining the application under delegated authority;
- Ground 2: Failure to take into account material considerations including, the Parish Council and Claimants objections, together with previous appeal decisions on the site;
- Ground 3: Failure to give reasons for the decision; and
- Ground 4: Error of fact, that the officer considered that the proposed building would be 2m higher than that permitted under the 2016 Decision whereas the claimant considers it was 2.35m.

4.3 The claimant was granted permission to proceed on 23 January 2018 by Order of Supperstone J on the basis that "all the grounds are arguable." The Council conceded by sealed consent order dated 21 March 2018 that the Claimant's application for judicial review should be allowed on Ground 1, in that, as required by the Council's constitution, the signing officer did not consult with the Chair of the relevant committee prior to exercising delegated powers in accordance with the council's constitution where there was an objection to the application raised by Whitchurch Parish Council (WPC) which was contrary to the recommendations made by officers and the WPC did not tick the relevant box on the consultation response proforma, that they will be in attendance to speak at the meeting of the appropriate Development Management Committee.

4.4 The Council has conceded that the decision was ultra vires and the original decision should be quashed and the application re-determined on ground 1 alone. The following sections of this report fully assess the application, including all the detailed grounds raised by the Claimant and the Parish Council in their various representations.

5.0 SITE DESCRIPTION

5.1 The application site relates to a roughly triangular parcel of land located on Oving Road to the west of Whitchurch. Although formerly a sandpit, the site now comprises of a grass paddock flanked by existing residential development. The land slopes gradually down towards the road, with the site frontage bounded by hedgerow planting and low earth bunds. To the west is an existing public footpath, with an existing access track to the east. The site lies within the Quinton-Wing Hills AAL.

6.0 PROPOSAL/DESCRIPTION OF DEVELOPMENT

6.1 Permission is sought for the construction of a detached dwelling, built according to “Passivhaus” principles and with ground source heating. A detached building would also be constructed towards the rear of the site, incorporating a central archway. This application is effectively seeking to amend planning permission 15/02903/APP for a partially underground “Passivhaus” and outbuilding on the rear proportion of the land at “The Old Sandpit”. The revisions to the previous approval can be summarised as follows:

- Raising the finished floor level of the dwelling so that it finishes 2.35m above the adjacent ground level and the formation of sunken walkway around building for access purposes;
- Rotation of previously approved storage building so that it follows the western boundary of the site; and
- Utilise the existing access drive along the eastern boundary of the land.6.2

6.2 The footprint, scale, design and position of the proposed dwelling would be very similar to that previously permitted under the extant permission (i.e. it would comprise of a single storey property with lean too sedum roof and central enclosed courtyard). It would sit on a traditional foundation, with a beam and block suspended floor. The main structure will be constructed from an insulated panel timber frame, finished in timber cladding. It would also have higher levels of air tightness, insulation and triple glazing to accord with “Passivhaus” standards. The attached outbuilding would have solar panels fitted to its east facing roof slope to generate electricity for the new dwelling, with any surplus fed back into the national grid.

6.3 Planning permission was refused and the subsequent appeal dismissed last year (Ref: 16/03245/APP) for the erection of a new dwelling along the site frontage due to its potential impact on the character and appearance of the countryside and AAL. Given its overall size, height and position there are clearly material differences between the 2016 application and this current scheme. In detail, the 2016 application involved the erection of a conventional 1.5 storey pitched roof dwelling with a ridge height of 6.7m above existing ground levels. It

was also to be set back only 6.8m from the site frontage. By way of comparison, the current scheme would only project 2.35m above existing ground level and be positioned 30m back from Oving Road.

7.0 PARISH/TOWN COUNCIL COMMENTS

7.1 Whitchurch Parish Council (WPC) and Oving Parish Council (OPC) have been formally consulted on this re-determination. As required by the District Council's constitution, a site notice was posted on 6th June 2018, giving interested parties until 27th June to comment on this application. The planning case officer also notified the claimant by email on 4th June 2018 that a site notice would be posted and both WPC and OPC would be formally consulted on the re-determination. It is acknowledged that the site is neither in or adjoining the Oving parish boundary and there is no statutory requirement to notify this parish council. However, for consistency they have been re-consulted on this re-determination.

7.2 Whitchurch Parish Council

Original comments: (10.10.2017) – This planning application was considered by Whitchurch Parish Council at their meeting held on 9.10.17. They resolved to oppose this application as raising the house up as proposed will make the structure visible, thus defeating the point and removing the benefit of the structure that was allowed. Protecting the green boundary is a priority for us as a Parish Council, to protect the nature and identity of the village.

Additional Comments (18.06.2018) WPC have confirmed their objection to the application and have indicated that they are going to speak at the Committee meeting.

7.3 Oving Parish Council

Original comments (12.09.2017): none received

Additional comments (18.08.2018) OPC objected originally to this application and these objections remain, since this application is for a higher and larger house.

7.0 RELEVANT PLANNING HISTORY

7.1 Between 1984 and 2001, the site was the subject of three applications for residential development. These applications were:

84/00407/AV - Erection of two dwellings;

98/01956/AOP - Site for two dwellings; and

01/01335/APP - Erection of a dwelling.

These applications were all refused permission and subsequent appeals were dismissed.

7.2 Since 2010, the site has been the subject of further applications, submitted by the same applicant. These are:

10/00583/APP - Erection of a single storey building for storage including tractors and vintage farm machinery and provision of track to existing field access – Refused 08/06/10. An appeal was subsequently allowed, the decision dated 09/12/10. A High Court challenge to the Inspector's decision was dismissed on 22/03/12.

10/02003/APP - Erection of a stable block – Refused 23/11/10.

11/00328/APP - Erection of a stable block - Appealed on non-determination within target time. An appeal was subsequently dismissed on 20/10/11.

11/02132/APP - Erection of two detached dwellinghouses with associated access and landscaping (frontage land) – Refused 21/11/11. An appeal was dismissed 20/11/12.

11/02663/APP - Erection of one detached dwellinghouse with associated access and landscaping (frontage land) – Refused 15/03/12. An appeal was withdrawn.

12/02562/APP - Erection of one detached dwellinghouse with associated access and landscaping (rear land) – Refused 15/03/13.

13/02835/APP - Erection of one detached single storey dwelling (frontage land) – Refused 11/12/13.

14/00455/APP - Erection of a three bedroom single storey dwelling and one detached garage – Refused 22/04/14. Reasons:

1) The proposed development comprises a new dwelling on land in the countryside outside the built-up limits of the village. The site is not substantially enclosed by built development and the proposed dwelling along with the use of the site for residential purposes represents an intrusion into the countryside that would result in the significant reduction of a visually significant gap, would fail to satisfactorily complete the settlement pattern in this area, and would harm the attractive quality of the surrounding rural landscape that has been designated an Area of Attractive Landscape in recognition of its landscape value. The proposal therefore conflicts with the Aylesbury Vale District Local Plan policies GP35, RA2, RA8 and RA 14 and fails to accord with advice in the National Planning Policy Framework.

2) The proposed development would result in the extension and consolidation of development on the northern side of Oving Road at the western edge of the village. It would significantly prejudice the landscape value of an important countryside gap which separates the built-up area of Whitchurch from an isolated group of buildings in the countryside, and would thereby have a detrimental impact on the form and character of the settlement and the character and appearance of the surrounding countryside, designated an Area of Attractive Landscape in recognition of its landscape value. The proposal therefore conflicts with the Aylesbury Vale District Local Plan policies GP35, RA2, RA8 and RA 14 and fails to accord with the National Planning Policy Framework guidance.

An appeal lodged against refusal and dismissed 09/01/15.

15/02903/APP - Construction of partially underground Passivhaus with ground source heat, and construction of detached building with central archway (amendment to storage barn approved on appeal under ref. 10/00583/APP) to provide access, garaging and storage, with associated external parking and access - Approved

16/03245/APP - Construct a barn style single storey house with bedrooms in the roof space above and double garage attached. – Refused. This involved the development of the southern part of the plot fronting onto Oving Road. Appeal dismissed. Reference is made to this application/appeal in the ‘proposal’ section of the report.

8.0 CONSULTATION RESPONSES

8.1 AVDC Drainage Officer – No comments received.

8.2 AVDC Biodiversity Officer – It is considered that there is not a reasonable likelihood of protected species being affected by this development. Therefore, no supporting ecological information is required and there is no objection towards this application.

8.3 AVDC Environmental Health – No objections.

8.4 AVDC Environmental Services - No comments received.

8.5 Bucks CC Highways – This application is for three amendments to the previously approved application 15/02903/APP. These amendments are; change of vehicular access location, the realignment of the barn and the raising of the house out the ground by 2m. There have been multiple planning applications on this site on which the Highway Authority have previously commented upon.

- 8.6 Vehicular access is now proposed to be taken from the existing access at the southeast of the site and the public footway retained to the southwest of the site. The vehicular access must be a minimum of 3.2m wide and Drawing SJG/003 shows the existing access and access track to be of sufficient width. The access must be upgraded in accordance with Buckinghamshire County Council Guidance Note "Private Vehicular Access Within Highway Limits" 2013 and this has been secured in condition 2 below.
- 8.7 Regarding visibility; in accordance with Manual for Streets, for a stretch of highway subject to a 40mph speed limit, the visibility requirements are 2.4m X 79m to the near side carriageway edge in both directions. There should be no obstruction within this area between 0.6m and 2m in height to ensure highway safety. Adequate visibility can be achieved and this can be secured by way of condition.
- 8.8 It is also noted that the Design and Access Statement states that the existing gates will be converted to electrically operating gates. It must be ensured that these gates are situated at least 6m back from the carriageway to ensure adequate room for vehicles to turn into the access without disrupting the flow of traffic.
- 8.9 Due to the realignment of the barn, the proposed parking area differs from the previously approved application. AVDC are the Parking Authority within the district and their regulations must be followed when laying out the scheme for parking. The parking standards specify that each parking space should be a minimum of 2.4m x 4.8m wide. A large turning and manoeuvring area is also proposed and cars would be safely able to exit the site in a forward gear. However, as the Local Planning Authority, AVDC will comment further on the parking provision.
- 8.10 Mindful of the above, the Highway Authority has no objection to the proposed development subject to conditions
- 8.11 Bucks CC Strategic Access Officer - The Design & Access Statement suggests the vehicular access for this application intends to use the eastern alignment rather than shared use of the public footpath to the west. This removes any potential conflict between walkers and vehicles, and removes potential surface damage from construction vehicles and ongoing access to the dwelling. The existing public footpath amenity is therefore unaffected.

Close-boarded fencing is proposed along the western boundary and this seems to be lawfully located in relation to the footpath width. Consequently, there are no objections to this application.

9.0 REPRESENTATIONS

9.1 A letter of representation has been received from Hexon Planning Consultancy on 13.10.2017 on behalf of a local resident raising the following objections:

- The LPA have refused a number of applications for dwellings on this site and have successfully defended at least three appeals. In those appeal decisions the Inspectors have consistently argued that the site falls within the countryside on the western edge of the village and constitutes an important visual gap which separates the built-up area of Whitchurch from an isolated group of dwellings located to the west. The Inspectors also recognised the importance of the gap in preserving the openness of the countryside and contributing to the AAL within which the application site falls.
- Subsequently, application 15/02903/APP was approved on the grounds that the dwelling would have been predominantly underground and that the surface of the land above the house would be grassed with only an opening for a recessed courtyard and two skylights being visible. Therefore, the openness of the site and the visual gap would be preserved.
- The latest application constitutes an amendment to this scheme. The proposed dwelling would now only be partially buried with around 2.35m sitting above ground. Such a design will clearly result in the obvious presence of built development within the site which will result in the loss of the visually important gap and the coalescence of the village with the development to the west. Whilst the building would have a flat roof and would be screened to from {which? – both referred to in letter] the west by a bund and landscaping there is no guarantee that such landscaping will remain in the long term and during the winter months the development will be visible. Additionally there is also a public footpath which runs along the western side of the site from which the site can be seen. This is reflected in the Inspectors reasoning in paragraphs 11 and 12 of the last appeal for a dwelling on this part of the site (14/00455/APP);
- The development would also set a precedent for the development of the land to the front of the site for upon which an application was recently refused (16/03245/APP) and defend on appeal on the grounds that it the site formed an important visual gap which played an important role in the openness of the countryside. In his decision the Inspector stated that he agreed with the previous Inspector that: ‘...it would not be prudent or good practise to rely on landscaping to permanently screen a building.

- Weighing up all the above factors it is considered that the adverse effects that the development would have upon the rural character of the locality and the appearance of the AAL would significantly and demonstrably outweigh the benefits of providing a single dwelling towards the five year housing land supply. Refusal of the application on these grounds would also be consistent with all of the previous refusals for a dwelling on this part of the site all of which have been defended on appeal. Therefore, the proposal should be refused on the grounds that like all of the previous applications it is contrary to policies GP.35, RA.2 and RA.8 of the AVDLP and NPPF advice.

9.2 A further representation was made by the same party on 9th November 2017 questioning why a decision had been made and querying why the representations made on behalf of the local resident and Whitchurch Parish Council were not referred to in the original officer report.

Copies of these letters are appended at the end of the report (Appendices A & B).

10.0 EVALUATION

The planning policy position and the approach to be taken in the determination of the application

10.1 Members are referred to the Overview Report before them in respect of providing the background information to the policy framework for the consideration of this application. The starting point for decision making is the development plan, i.e. the adopted Aylesbury Vale District Local Plan and the Wing Neighbourhood Plan (WNP). S38 (6) of the Planning and Compulsory Purchase Act 2004 requires that decisions should be made in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG) are both important material considerations in planning decisions. Neither change the statutory status of the development plan as the starting point for decision making but policies of the development plan need to be considered and applied in terms of their degree of consistency with the NPPF, PPG and other material considerations.

Aylesbury Vale District Local Plan (AVDLP)

10.2 The overall strategy of the Aylesbury Vale District Local Plan (AVDLP) is to seek to concentrate the majority of growth (65% housing and employment) at Aylesbury with the remaining 35% in the rural areas. The latter was to be concentrated at a limited number of settlements. Insofar as this overall strategy is one which is based on the principle of

achieving sustainable development, it is considered that this is still in general conformity with the Framework.

- 10.3 The overall strategy of the Aylesbury Vale District Local Plan (AVDLP) is to seek to concentrate the majority of growth (65% housing and employment) at Aylesbury with the remaining 35% in the rural areas. The latter was to be concentrated at a limited number of settlements. Insofar as this overall strategy is one which is based on the principle of achieving sustainable development, it is considered that this is still in general conformity with the Framework.
- 10.4 Policies RA13 and RA14, seek to restrict development to small-scale infill or rounding off at Appendix 4 settlements. These form part of the strategy for the supply of housing district-wide, are now out of date given that these identified housing targets for the plan period up to 2011 and the evidence relating to the district's need has changed significantly since these policies were adopted, and not considered to be consistent with the NPPF policies to significantly boost the supply of housing based on up to date evidence. These policies are given very limited weight. Since policies RA13 and 14 are out of date the presumption in favour of sustainable development at paragraph 14 of the NPPF would apply, unless specific policies in the NPPF indicate that development should be restricted; the landscape in the vicinity of the site is such a restriction in this case so that the presumption is not engaged unless, following a neutral balancing process (i.e. not applying the presumption contained in paragraph 14 of the NPPF) it is concluded that permission should be granted.
- 10.5 A number of general policies of the AVDLP are considered to be consistent with the Framework and therefore up to date so full weight should be given to them. Consideration therefore needs to be given to whether the proposal is in accordance with or contrary to these policies. Those of relevance are (Policies GP8, GP24, GP35, GP38 - GP40, GP45, RA2 and RA8).
- 10.6 It is considered that policy GP35 is consistent with the policies of Framework and is applicable to an outline proposal which is a view supported by the Secretary of State's recent appeal decision at Glebe Farm, Winslow (ref 13/01672/AOP) and also by the Secretary of State and Inspector in considering the schemes subject to the conjoined Inquiry (Hampden Fields/Fleet Marston and Weedon Hill North). In detail, policy GP35 which, amongst other things, seeks to ensure that development respects and complements the physical characteristics of the site and surroundings; the natural qualities and features of the area, the effect on important public views and skylines is broadly consistent with the core planning principles of the NPPF, to always take account of the different roles and character of different areas and the intrinsic character and beauty of the countryside.

Emerging policy position in Vale of Aylesbury District Local Plan (draft VALP)

- 10.7 The Council has set out proposed policies and land allocations in the draft Vale of Aylesbury Local Plan. The draft Vale of Aylesbury Local Plan was published and subject to public consultation in summer 2016. Following consideration of the consultation responses, and further work undertaken changes have been made to the draft plan. A report has been considered by the VALP Scrutiny Committee on 26 September and Cabinet on 10 October 2017 on the proposed submission plan. The Cabinet's recommendations were considered by Council on 18 October 2017. The proposed submission was the subject of consultation from, 2 November to 14 December 2017. Following this, the responses have been submitted along with the Plan and supporting documents for examination by an independent planning inspector at the end of February 2018. The adoption of the Vale of Aylesbury Local Plan is planned to be in 2018.
- 10.8 Currently this document can only be given limited weight in planning decisions as it is still too early in the planning making process, however the evidence that sits behind it can be given weight. Of particular relevance are the Settlement Hierarchy Assessment (September 2017). The Housing and Economic Land Availability Assessment (HELAA) (January 2017) is an important evidence source to inform plan-making, but does not in itself determine whether a site should be allocated for housing or economic development or whether planning permission should be granted. These form part of the evidence base to the draft VALP presenting a strategic picture.

Housing supply

- 10.9 Paragraph 47 of the NPPF refers to the importance of identifying a five years supply of sites to assist in significantly boosting the supply of housing. In the absence of a figure to meet full objectively assessed housing need, which will emerge through the plan-making process (and which will also need to consider potential unmet needs from adjoining authorities not within the Housing Market Area), the council has set out its approach in the published five-year housing land supply position statement. This is regularly updated and the latest version is dated June 2018 This version uses the proposed Full Objectively Assessed Need (FOAN) identified in the Buckinghamshire Housing and Economic Development Needs Assessment (HEDNA) Update December 2016 and addendum (September 2017) (970 dwellings per annum). This represents the most appropriate need requirement figure as it considers the district's own objectively assessed needs as well as that within the housing market area. Based on the findings of the HEDNA, the housing land supply document shows the Council has an 11.7 year supply this year (compared with 9 years previously).

- 10.10 It is acknowledged that this 5 year housing land supply calculation does not include any element of unmet need. However at this stage it would not be appropriate to do so. Whilst the unmet need figure has progressed, it has not been tested through examination and it would not be appropriate to use a 'policy on' figure for the purposes of calculating a 5 year housing land supply for Aylesbury until the "policy on" figures and general policy approach has been examined and found sound.
- 10.11 Given the Council's 11.7 year housing land supply, paragraph 49 of the NPPF is not engaged. However, taking into account the NPPF's aim of boosting housing supply, some, albeit limited, weight is to be given to the delivery of housing on the site.

Neighbourhood Planning

- 10.12 It is understood that although WPC have registered an interest in preparing a neighbourhood plan, no formal area designation has been made. At this time the Plan can be given no weight in planning decisions as it is at very early stage.

Whether the proposal would constitute a sustainable form of development.

Sustainable location

- 10.13 The Government's view of what 'sustainable development' means in practice is to be found in paragraphs 18 to 219 of the NPPF, taken as a whole (paragraph 6). The NPPF has a presumption in favour of sustainable development which should be seen as a golden thread running through plan-making and decision-taking.
- 10.14 The following sections of the report will consider the individual requirements of sustainable development as derived from the NPPF and an assessment made of the benefits together with any harm that would arise from the failure to meet these objectives and how the considerations should be weighed in the overall planning balance.
- 10.15 The site is considered to be located in the countryside beyond the established boundary of the settlement, set by the recent houses on the adjoining land to the east (Quiet Ways and Tigerlilly). To the west, Wayside, Chiltern View and Hawthorns comprise a small cluster of development in the countryside, within Oving parish and physically separated from the ribbon development extending west from Whitchurch along the north side of Oving Road. Nevertheless, the land is situated within close proximity of the main built form of the village and its associated facilities. Indeed, the primary school and bus stop are situated within 200m of the site. As such, it would not introduce an isolated dwelling in the countryside in the context of paragraph 55 of the NPPF. Nor would it represent small scale rounding off

as referenced in Policy RA14 of the AVDLP. In *Braintree DC v Secretary of State for Communities and Local Government* [2018] EWCA 610 [31], it was confirmed that “the word “isolated” in the phrase “isolated homes in the countryside” simply connotes a dwelling that is physically separate or remote from a settlement. Whether a proposed new dwelling is, or is not, “isolated” in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand”.

- 10.16 The NPPF promotes sustainable development and encourages consolidation of smaller rural settlements where it will enhance or maintain the vitality of rural communities. In terms of its broader location, Whitchurch is identified in the AVDLP as an Appendix 4 settlement implying that it is considered to be appropriate to allow “limited small-scale development” at the settlement. The Council’s Settlement Hierarchy Assessment 2017 identifies Whitchurch as one of the District’s ‘larger villages.’ It is therefore considered to be a sustainable location and is capable of accommodating the new dwelling proposed in the application. This approach is consistent with the views of officers in previous applications on this site, including the 2016 case, where it was considered that the site was a sustainable location for residential development. Neutral weight should be applied to this matter in the planning balance.
- 10.17 Nevertheless, it remains necessary to consider that application against the sustainability tests of the NPPF as a whole and not just locational characteristics.

Building a strong competitive economy

- 10.18 The Government is committed to securing and supporting sustainable economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.
- 10.19 It is considered that there would be economic benefits in terms of the construction of the development itself and the resultant increase in population contributing to the local economy. It is therefore considered the economic benefits of the scheme are limited given the scale of the proposed development. Limited positive weight should therefore be attached to this matter.

Promoting Sustainable Transport

- 10.20 It is necessary to consider whether the proposed development is located where the need to travel will be minimised, the use of sustainable transport modes can be maximised and that safe and suitable access can be achieved.

- 10.21 The site is 200 metres away from a bus stop which has a regular bus service to Aylesbury. The various services in Whitchurch including a primary school, general convenience store, public house and village hall are all within a reasonable walking distance via an existing footway on this side of Oving Road. As such, occupiers of the proposed dwelling would not be reliant on the private motor vehicle to access essential services and employment opportunities. Therefore, the site is reasonably located in terms of its accessibility. This is a neutral matter which neither weighs for or against the scheme.
- 10.22 Turning to the development itself, this application seeks to utilise the existing access driveway on the eastern side of the plot. Bucks CC Highways have assessed the impact of the proposal in terms of visibility and impact on the local highway network and concluded that it would not impact on highway safety in Oving Road, subject to the imposition of conditions requiring the provision of necessary visibility splays, parking and turning area and opening of any entrance gates away from the carriageway.
- 10.23 Policy GP24 of the AVDLP requires that new development accords with published parking guidelines. SPG1 “Parking Guidelines” at Appendix 1 sets out the appropriate maximum parking requirement for various types of development. This suggests that up to two parking spaces should be provided within the curtilage of dwellings with three bedrooms as is proposed in this case. The proposed parking area would meet this guideline. As such, the proposal would comply with policy GP24 of the AVDLP and the NPPF in this regard. Thus, this should be attributed neutral weight in the planning balance.

Delivering a wide choice of high quality homes

- 10.24 Local planning authorities are charged with delivering a wide choice of high quality homes and to boost significantly the supply of housing by identifying sites for development, maintaining a supply of deliverable sites and to generally consider housing applications in the context of the presumption in favour of sustainable development (paragraphs 47-49).
- 10.25 The development would provide a large detached four-bedroom property on the site. Given that there is a varied mix of property types in Whitchurch and the surrounding area, the proposed unit would not lead to an overconcentration of large detached properties in this area and would add to the housing mix in the village which includes a variety of smaller properties.
- 10.26 The provision of one additional dwelling is a benefit, especially considering there is no reason that the site could not be delivered within the next five-year period making a

contribution to housing land supply. Given the scale of the proposed development, this benefit is considered to have limited positive weight.

Good design

- 10.27 The NPPF states that good design is a key aspect of sustainable development and should contribute positively to making places better for people. Development should function well and add to the overall quality of the area, establish a strong sense of place, optimise the potential of the site to accommodate development and provide for an appropriate mix of uses, respond to local character and history, create safe and accessible environments which are visually attractive.
- 10.28 In paragraph 60 the NPPF says that planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.
- 10.29 Policy GP35 is also relevant and which requires new development to respect and complement the physical characteristics of the site and surroundings; the building tradition, ordering, form and materials of the locality, the historic scale and context of the setting; the natural qualities and features of the area; the effect on important public views and skylines.
- 10.30 The proposed dwelling has been designed in a contemporary style to “Passivhaus” standards with a sedum roof. The outbuilding would broadly replicate the form and appearance of an agricultural barn and therefore complement its countryside location. A detailed appraisal of the design and impact of the proposed development is set out in the natural environment section of the report. Therefore, this is also a neutral matter to be weighed in the planning balance.

Promoting healthy communities

- 10.31 Whitchurch has several meeting places including a public house, church and village hall. Consequently, there would be potential opportunities for the future occupiers of the new unit to interact with the local community. As such, this proposal would not conflict with the overall aims of paragraph 69 of the Framework. This matter should also be afforded neutral weight.

Meeting the challenge of climate change and flooding

10.32 Paragraph 103 of the NPPF requires new development to consider the risk of flooding to the site and elsewhere. The site falls within Flood Plain 1 and is at low risk of flooding. Soakaways are shown to deal with surface water run-off. The proposed dwelling has been designed to be carbon neutral. Nevertheless, this is a policy expectation rather than an overall benefit of the scheme. Thus, these matters should be afforded neutral weight.

Conserving and enhancing the natural environment

Impact on character and appearance of countryside/AAL:

- 10.33 AVDLP policy RA2 requires that new development in the countryside avoids reducing open land that contributes to the form and character of rural settlements. In particular, developments that comprise extensions to built-up areas with the potential to give rise to coalescence between settlements should be avoided. Policy RA8 states that within AALs, proposals should respect the local landscape character. Development that adversely affects this character will not be permitted, unless appropriate mitigation measures can be secured.
- 10.34 AVDLP policy GP35 requires that development respects and complements the physical characteristics of the site and its surroundings, the building tradition of the locality, and the scale and context of the setting, the natural qualities and features of the area and the effect of the development on important public views and skylines.
- 10.35 The NPPF, at paragraph 17, sets out principles to guide the planning process. It advises that the aims should include the conservation and enhancement of the natural environment and reducing pollution. The NPPF at paragraph 109 requires that the planning system should contribute to, and enhance, the natural and local environment, and that valued landscapes should be protected and enhanced. The NPPF does not define what constitutes a 'valued' landscape, although it is generally considered that in order to be 'valued' it is necessary for a site to show "some demonstrable physical attribute rather than just popularity". The land forms part of a much wider area of land which is designated as an AAL in the AVDLP.
- 10.36 The application site is a former sandpit which has been partly filled and is now overgrown with semi-mature landscaping along its boundaries. It was accepted both at an appeal in January 2015 and in the subsequent application in 2016 that, despite its former use, the land is not considered to represent previously developed land. Therefore, the undeveloped landscaped appearance of the site contributes to the verdant character of the countryside in this area. It also provides a visual buffer between the ribbon development stretching

west from Whitchurch and the isolated cluster of buildings that mark the eastern extent of Oving Parish. This is reflected in representations made on behalf of a local resident and WPC, together with the conclusions of the Inspector in the 2015 appeal where he concluded that:

“The isolated group of dwellings to the west of the access track and which includes ‘Wayside’ forms a discrete concentration of residential development within a countryside setting. The appeal site therefore provides an important visual gap that separates the built-up area of Whitchurch from the isolated group of dwellings and prevents the coalescence of these two distinct concentrations of built development. In that context, the appeal site plays an important role in preserving the openness of the countryside and safeguarding the character of the AAL. I note that the importance of this gap has been consistently recognised by Inspectors in determining appeals for development on the appeal site and neighbouring sites.”

10.37 It is important to note that the dwelling subject to the 2015 appeal (Ref:14/00455/APP), the 2016 application/appeal (Ref: 16/03245/APP) and the preceding refused applications/appeals outlined in the relevant history section of this report all involved the erection of single or two storey dwellings which were set closer to the main road frontage than the current scheme. By way of comparison, the height, width, depth and set back from the Oving Road frontage of the dwellings subject to the 2015 appeal, 2016 application and the current scheme are set out below:

2015 Appeal:	2016 application:	Current scheme:
Height 6.4m	6.7m	2.35m
Width 11m	17m	20m
Depth 7m	7.1m	17.5m
Set back 22m	6.8m	30m

10.38 Taking the above dimensions/distances into account, the proposed semi-sunken dwelling would set back approximately 30m from the Oving Road frontage compared with 22m for the 2015 appeal and 6.8m for the 2016 application. Consequently, the dwellings proposed under these applications were due to their siting and position closer to the main road were more prominent and visually imposing than the current scheme. Thus, there are clear material differences between these applications and the current scheme.

- 10.39 Turning to the relative heights of the previously refused dwellings on the site, the proposed unit subject to the 2015 appeal would have a ridge height of 6.4m above existing ground levels, with the 2016 application slightly taller at 6.7m. Therefore, whilst it is acknowledged that the current semi-submerged dwelling would have a greater depth than the previously refused schemes, they were between 4.05m – 4.35m higher than the property subject to this application. Consequently, the visual impact and prominence of the proposed dwelling would be significantly reduced when compared to the previously refused schemes.
- 10.40 This revised application effectively seeks to raise the floor level of the property so that the upper part of the dwelling extends above the adjacent ground levels by 2.35m. A local resident and WPC have raised concerns that by extending above existing ground levels, the proposed semi-submerged dwelling would result in the loss of an important visual gap which separates the existing built up area of Whitchurch and the isolated cluster of dwellings to the east, thereby conflicting with decisions made on previous applications and appeals on the site. In addition, it is suggested that the dwelling would have a detrimental impact on the openness of the site which could not be effectively mitigated by existing/proposed landscaping; appear unduly conspicuous from public views from the adjacent right of way; and set a precedent for the future development of the front part of the site.
- 10.41 It is acknowledged that the proposed dwelling would project above existing ground levels by 2.35m. Nevertheless, a combination of its position set back towards the rear of the plot, its flat green sedum roof and existing landscaping/fencing would ensure that the proposal would blend in with the pastoral character of the site and preserve its openness. Moreover, the landform in this area is relatively flat, restricting views of the site from the surrounding landscape. The presence of the existing hedgerow and fence which is sited on a low bund along the front and side boundaries of the site (i.e. to Oving Road and adjacent to the PROW) together with the position of the proposed dwelling set back around 30m from the Oving Road frontage would further limiting views across the site. The proposed external walkway around the dwelling would be submerged below ground level and would not therefore increase its visual impact or prominence. Similarly, the proposed storage building, which would be of the same design, height, width, depth and footprint, as the extant permission, would be rotated so that it extends along the boundary rather than across the width of the site, reducing its impact when compared with the previously approved scheme (15/02903/APP). Thus, in view of the set back from the frontage, design and height above ground level, it is considered that the development would maintain the function of the site as a landscaped visual buffer between existing built development in the area. Similarly, given its modest height above ground level and the existing landscaping on

this part of the site, the new building would also not appear unduly conspicuous from the public right of way directly to the east.

- 10.42 Other than its projection 2.35m above existing ground levels, the dwelling subject to this revised application is identical to the scheme approved under 15/02903/APP in all other respects. It would have the same width (20m), depth (17.5m), design and form (single storey property with lean too sedum roof and central enclosed courtyard) to the previously approved dwelling. Whilst it would project 2.3m above existing ground levels, due to its external treatment with green sedum roof and presence of existing landscaping the proposed development would have a very similar impact to the extant permission and therefore preserve the open, pastoral character of the site. Consequently, the same conclusions reached on the previous approval can also be applied to this case.
- 10.43 The Council are aware that Planning Inspectors have raised concerns with previous proposals about the effectiveness of landscaping and the ability to reduce the visual impact of residential development on the site. However, it is again important to note that these previously refused dwellings were significantly taller and more imposing than the current scheme. As such, they would have been visible above existing and proposed landscaping which is approximately 3m high. Thus, given the modest height of the proposed semi-sunken dwelling, it is considered that the existing landscaping would be effective and ensure that the proposal would be well assimilated into the surrounding landscape. Furthermore, given its limited projection above existing ground levels, any new landscaping would not need to be significant or artificially impact on the landscape character of the site. This represents a clear difference between the previous decisions/appeals on the site and the current scheme.
- 10.44 There is dense landscaping along the Oving Road frontage which is approximately 3m high. These landscaping features, together with the established planting to the western boundary abutting the adjacent footpath, would obscure public views of the partially submerged dwelling from Oving Road and the public right of way, due to the proposed structure being set back significantly on the plot and only projecting 2.35m above existing ground levels. This represents a clear difference between the previous decisions/appeals on the site and the current scheme. Moreover, it is important to note that the new dwelling would be viewed in the context of the adjoining residential development which is positioned much closer to, and is therefore more visually prominent from public vantage points along Oving Road/the adjacent public right of way. For example, the absence of landscaping along the site frontage and eastern boundary of the neighbouring bungalow (Wayside) to the west, clear and interrupted views are available of this property from both Oving Road and the public right of way which extended immediately to the east.

- 10.45 Notwithstanding the above conclusions, whilst the dwelling itself would be well integrated into the surrounding landscape, the use of this site for residential purposes could result in a change in the character of the land from that of a vacant site in the countryside to that of a suburban domestic curtilage. To reduce this impact, it is appropriate to impose conditions requiring the implementation of a landscaping and planting scheme including retention of existing boundary hedge planting. It would also be necessary to remove permitted development rights for sheds and other ancillary structures. These measures would limit the extent to which the site would take on a suburban appearance.
- 10.46 The argument raised by a local resident that the grant of planning permission would set a precedent for other similar developments on the site frontage is noted. However, the proposed partially submerged dwelling would be set back significantly from the Oving Road frontage and would not therefore appear as prominent from surrounding views. Thus, it would not set a precedent for the development of the remainder of the site and each development proposal would need to be considered on its own merits..
- 10.47 For the reasons set out above, the proposed development would preserve the openness of the countryside and the special landscape character of the AAL. Thus, it would accord with Policies RA2, RA8 and GP35 of the AVDLP and one of the core planning principles of the NPPF, to preserve the intrinsic character and beauty of the countryside. This is also a neutral matter which neither weighs for or against the scheme.

Trees and hedgerows

- 10.48 Policies GP39 and GP40 of the AVDLP seek to preserve existing trees and hedgerows where they are of amenity, landscape or wildlife value. The proposal would not involve the loss of any significant trees on the land. Although it may be necessary to trim back the existing hedgerow along the main road frontage to provide the necessary visibility splays, the majority of the landscaping on this part of the site would be retained. As such, the development would not adversely impact on existing trees or landscape features. It would therefore accord with Policies GP39 and GP40 of the AVDLP which seek to preserve existing trees and hedgerows where they are of amenity, landscape or wildlife value. These policies closely align with the Framework objective to refuse permission for development which would result in the loss of aged or veteran trees. This is a neutral matter to be weighed into the balance.

Biodiversity

10.49 The NPPF at Section 11 “Conserving and enhancing the natural environment” advises at paragraph 109 that the planning system should contribute to, and enhance, the natural and local environment by, among other things, minimising impacts on biodiversity and providing net gains in biodiversity where possible. The Council’s Biodiversity Advisor indicates that there is no reasonable likelihood of protected species being affected by the development. Again, this is a neutral matter to be weighed into the planning balance.

Conserving and enhancing the historic environment

10.50 The site is not within a conservation area or within the grounds of or adjacent to a listed building. It is considered that in the planning balance this matter should be afforded neutral weight.

Impact on residential amenity

10.51 Policy GP8 of the AVDLP states that planning permission will not be granted where the proposed development would unreasonably harm any aspect of the amenity of nearby residents when considered against the benefits arising from the proposal. Where planning permission is granted, the Council will use conditions or planning obligations to ensure that any potential adverse impacts are eliminated or appropriately controlled. The NPPF seeks to ensure that a good standard of amenity for all existing and future occupants of land and buildings.

10.52 The proposed dwelling would be partially submerged with the proposed boundary fencing restricting any potential overlooking of existing dwellings to the east and west. The restricted height and presence of existing landscaping would also ensure that the dwelling would neither appear unduly overbearing nor reduce the outlook from neighbouring properties. Given the limited number of vehicle movements that are likely to be associated with the proposed dwelling, it is not considered that the increased use of the existing driveway would cause undue noise or disturbance to the existing property to the east.

10.53 Overall, the proposal would have the capacity to provide an acceptable level of residential amenity for existing and future occupiers in accordance with Policy GP8 of the AVDLP and the NPPF, and this is attributed neutral weight in the planning balance.

PC comments and representations

10.54 The complainants and WPC have made detailed observations on the proposal. Whilst these have been referenced in the relevant sections of the report, a detailed summary of these comments and the case officers observations are summarised below:

Visual gap and value of AAL

- 10.55 It is recognised that in previous refusals/appeal decisions both AVDC and Inspectors have emphasised the importance of the site in terms of it providing a 'visual gap' between the built form of Whitchurch and the isolated group of dwellings further to the west. However, the proposal due to its position, modest projection above existing ground levels, combined with its green sedum roof design and presence of existing landscaping would ensure that the development would retain the visual buffer between the built form of Whitchurch and the isolated group of dwellings further to the west, which forms an important part of the value of the AAL. For these reasons it would also not lead to coalescence, linking the edge of the settlement and the houses to the west.

Comparison with 15/02903/APP

- 10.56 The Council has accepted that the dwelling approved under 15/02903/APP would preserve the openness of the site and the visual gap separating existing development on Oving Road. This revised scheme due to its modest projection above existing ground levels, presence of the existing earth bund and its green sedum roof would ensure that there would be 'no obvious presence' from public vantage points on Oving Road and the adjacent public right of way. Whilst the comments regarding the effectiveness and permanency of landscaping are noted, the retention of existing/provision of new planting is only one element of a package of measures which would enable the visual gap between the existing built form to be retained. As such, the proposal does not solely rely on the ability of landscaping to screen it from public views and retain the openness of the site. The Inspectors decision referred to relate to dwellings which are much taller and positioned closer to the road frontage so are not directly comparable to the current scheme. Thus, the visual impact of this revised application would be broadly similar to that approved under 15/02903/APP.

Set precedence

- 10.57 If approved this application would not set a precedent for future development on the site frontage. The proposed dwelling would be positioned approximately 30m from Oving Road. This separation distance would retain the open visual gap along the front part of the site which would be lost if a new dwelling was erected in this area. Thus there are material differences between this current case and the recent refusal for a dwelling on the site frontage (Ref: 16/03245/APP). Any concerns raised regarding precedent are therefore unfounded.

Response to applicants grounds for challenge

10.58 The application was determined under officers' delegated powers and AVDC granted planning permission on 16 October 2017. Following the decision a local resident submitted a claim for judicial review of the decision on 23 November 2017 on the following grounds:

- Ground 1: that the decision was ultra vires as the Parish Council had objected to the application and this should have prevented the Council from determining the application under delegated authority;
- Ground 2: Failure to take into account material considerations including, the Parish Council and Claimants objections, together with previous appeal decisions on the site;
- Ground 3: Failure to give reasons for the decision; and
- Ground 4: Error of fact, that the officer considered that the proposed building would be 2m higher than that permitted under the 2016 Decision whereas the claimant considers it was 2.35m.

Ground 1:

10.59 The Council has conceded that the decision was ultra vires and the original decision should be quashed and the application re-determined on ground 1 alone.

Ground 2:

10.60 For the reasons set out in paragraphs 10.32-10.46 and 10.54-10.56 of this report, all material considerations including the complainants and Parish Council comments and the relevant planning history have been taken into account in determining this application.

Ground 3:

10.61 The report, for the reasons set out in paragraphs 10.32-10.46 clearly gives reasons for why the decision has been reached and the differences between the current scheme and the previous refused/dismissed applications/appeals. Moreover, the same paragraphs also give reasons why despite its modest projection above existing ground levels, the impact of the current scheme would be broadly similar to that approved under 15/02903/APP.

Ground 4:

10.62 This revised report refers to the dwelling projecting 2.35m above existing ground levels. Consequently, there is 'no error of fact'.

Conclusion on the compliance with the development plan

10.63 Whilst officers have identified that there is a conflict with RA14, this policy is considered to be out of date and carries very limited weight. It is considered that overall the development is in accordance with the development plan in the light of compliance with the bulk of the development plan policies.

Appendix A:

Hexon Planning Consultancy Ltd
31 Vicarage Road
Winslow
12th October 2017

Dear Mr Cannon,

Re 17/03292/APP - Land Adj. Wayside Oving Road Whitchurch - Construction of partially underground Passivhaus with ground source heat and detached storage building with associated external parking and access (amendment to planning approval 15/02903/APP)

I am writing on behalf of Mr John Southwood of Quiet Ways Oving Road Whitchurch who objects to the application for the reasons outlined below.

The LPA have refused a number of applications for dwellings on this site and have successfully defended at least three appeals. In those appeal decisions the Inspectors have consistently argued that the site falls within the countryside on the western edge of the village and constitutes an important visual gap which separates the built-up area of Whitchurch from an isolated group of dwellings located to the west. The Inspectors also recognised the importance of the gap in preserving the openness of the countryside and contributing to the Area of Attractive Landscape (AAL) within which the application site falls.

Following the last refusal and subsequent dismissed appeal the applicants submitted an application for a subterranean dwelling to overcome the concerns of the loss of the gap and the coalescence between the edge of the settlement and the houses to the west. This application (15/02903/APP) was approved on the grounds that the dwelling would have been predominantly underground and that the surface of the land above the house would be grassed with only an opening for a recessed courtyard and two skylights being visible. Therefore, the openness of the site and the visual gap would be preserved.

The latest application constitutes an amendment to this scheme. The proposed dwelling would now only be partially buried with around 2.35m sitting above ground. Such a design will clearly result in the obvious presence of built development within the site which will result in the loss of the visually important gap and the coalescence of the village with the development to the west. Whilst the building would have a flat roof and would be screened to from the west by a bund and landscaping there is no guarantee that such landscaping will remain in the long term and during the winter months the development will be visible. Additionally there is also a public footpath which runs along the western side of the site from which the site can be seen. In the last appeal for a dwelling on this part of the site (14/00455/APP) the Inspectors stated at paragraphs 11 and 12:

'The appellant points out that the site is screened by the addition of a bank

around the south and west of the site, supplanted by landscaping. The appellant contends that the proposed dwelling would not be visible from Oving Road and therefore would not affect the character of the area. I do not agree. During my site visit, I noted that ground level

on the appeal site could be seen through the landscaping screen. In my judgement, the proposed dwelling would be visible above the landscaping in longer views, including from the entrance to the stud farm on the south side of Oving Road. It would also be visible from the footpath on the western boundary of the site.'

'In all these views, the role played by the appeal site as an important open gap that separates the built-up area of Whitchurch from the isolated group of dwellings to the west of it is apparent. The proposed development would erode that important gap in these views. It would not be prudent or good practice to rely upon landscaping to permanently screen the building in these views should for any reason that landscaping fail or be removed in the longer term.'

The development would also set a precedent for the development of the land to the front of the site for upon which an application was recently refused (16/03245/APP) and defend on appeal on the grounds that it the site formed an important visual gap which played an important role in the openness of the countryside. In his decision the Inspector stated that he agreed with the previous Inspector that:

'...it would not be prudent or good practise to rely on landscaping to permanently screen a building.

Weighing up all the above factors it is considered that the adverse effects that the development would have upon the rural character of the locality and the appearance of the AAL would significantly and demonstrably outweigh the benefits of providing a single dwelling towards the five year housing land supply. Refusal of the application on these grounds would also be consistent with all of the previous refusals for a dwelling on this part of the site all of which have been defended on appeal. Therefore, the proposal should be refused on the grounds that like all of the previous applications it is contrary to policies GP.35, RA.2 and RA.8 of the AVDLP and NPPF advice.

PAHems

Hexon Planning Consultancy

Appendix B

Hexon Planning Consultancy Ltd
31 Vicarage Road
Winslow

9th November 2017

Dear Mr Cannon,

Re 17/03292/APP - Land Adj. Wayside Oving Road Whitchurch - Construction of partially underground Passivhaus with ground source heat and detached storage building with associated external parking and access (amendment to planning approval 15/02903/APP)

I am writing on behalf of Mr John Southwood of Quiet Ways Oving Road Whitchurch.

We are disappointed to see that it appears that the letter of objection submitted in relation to the above application was not taken into consideration. It appears that the parish council's comments were also not taken into account.

The parish councils comments were submitted on the 10th October and our letter of objection on the 13th October.

The officer report states –

Whitchurch PC - no comments rec

Representations - none

The decision was issued on the 16th October, with the 8-week target date of the 24th October

Please find attached the original letter of objection submitted with associated email (which I trust you already have).

I would appreciate an explanation so that I can pass this onto our client.

Kind Regards

Paul Hems

Hexon Planning Consultancy