



REFERENCE NO	PARISH/WARD	DATE RECEIVED
18/01450/APP	MARSWORTH	25/04/18
REDEVELOPMENT OF CANAL BANK HOUSE AND ERECTION 6 DWELLINGS AND REVISED ACCESS. CANAL BANK HOUSE WATERY LANE HP23 4LY MR VINCE NARDUZZO	The Local Member(s) for this area is/are: -  Councillor Mrs Sandra Jenkins  Councillor Derek Town	
STREET ATLAS PAGE NO.104		

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:**

- Building a strong competitive economy
- Promoting sustainable transport
- Delivering a sufficient supply of homes
- Achieving well designed places
- Making effective use of land
- Promoting healthy and safe communities
- Conserving and enhancing the natural environment
- Conserving and enhancing the historic environment
- Meeting the challenge of climate change and flooding
- Supporting high quality communications

**c) Impact on existing residential amenity**

**d) Developer contributions**

**e) Other Matters**

The recommendation is that permission be **REFUSED**

**PLANNING BALANCE AND RECOMMENDATION**

The application has been evaluated against the Development Plan and the NPPF and the Authority has assessed the application against the objectives of the NPPF and whether the proposals deliver 'sustainable development'. Paragraph 11 of the NPPF planning permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

It is acknowledged that there would be economic benefits in terms of the construction of the development and those associated with the resultant increase in local population to which limited, positive weight is afforded in the planning balance.

The development would make a contribution to the housing land supply which is a significant benefit, although this benefit is tempered given the current substantial 11.7 years supply and the relatively small scale of the development and therefore is afforded limited positive weight in the planning balance. Work is ongoing towards revising this calculation in accordance with the new NPPF and early indications are that the council still maintains over 5 years supply.

Compliance with some of the other objectives of the NPPF have been demonstrated or could be achieved in terms ecology, parking, appearance of dwellings only and residential amenity. However, these matters do not represent benefits to the wider area but demonstrate an absence of harm to which weight is attributed neutrally.

This application was not accompanied by a flood risk assessment and therefore the Local Planning Authority are unable to ascertain the risk of flooding to the proposed dwellings nor are they able to conduct an assessment of the suitable mitigation measures. In addition, the proposed method of surface water disposal is unlikely to be feasible due to high groundwater levels. Subsequently the applicant has failed to demonstrate that the proposed development will not result in an increase in surface water flood risk elsewhere and therefore this matter is afforded significant negative weight in the planning balance.

The site is predominately a greenfield site, and located in an area some distance from the main part of the settlement and separated from it by the canals and the narrow canal bridges. The site is linked to the built up area of Marsworth by narrow and substandard roads lacking in footway provision leading to an over reliance on the private motor vehicle which would then use these substandard roads. The site is therefore in an unsustainable location, and this represents harm to which significant weight must be attached.

In terms of landscape and visual impact, the site is clearly visible from a number of vantage points close to the site and therefore harm would also be caused to users of the public rights of way. The adverse landscape and visual impact of the proposal should therefore be accorded significant negative weight in the planning balance. In addition, the development has been identified as causing less than substantial harm to the Conservation Area and its setting, again being afforded significant negative weight . Given the impact on the trees and hedgerows adjacent to the site, particularly Watery Lane in unknown moderate negative weight as been afforded to this impact on the overall planning balance with limited negative weight being afforded to the permanent loss of agricultural land.

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 supplementary planning documents and guidance, in applying paragraph 11 of the NPPF, it is considered that the adverse impacts and less than substantial harm identified would not significantly and demonstrably outweigh the benefits, including the public benefits of the proposal. It is therefore recommended that the application be **REFUSED** subject to the following reasons:-

- 1) Due to the location of the site, the proposed development would lead to the over-reliance of the private motor vehicle for future occupiers. This is due to the absence of adequate infrastructure and the site's remoteness from the built up area and village amenities. Furthermore, the local highway network serving the site is inadequate by virtue of its width and alignment leading to its inability to effectively serve the proposed development. This, combined with the lack of/limited provision of footway would lead to conditions of danger to pedestrians walking to or from the proposed development. The proposed development

therefore comprises unsustainable development that fails to accord with advice in the National Planning Policy Framework.

- 2) The proposal would result in the development of a predominately greenfield site resulting in a significant intrusion into open countryside, which would fail to complement the existing settlement character and identity, and would result in significant adverse impacts on the landscape character and visual amenity of the site and surroundings and the rural character and appearance of the site. The proposed development due to the loss of open land and the form and design of the development fails to preserve the setting of the Marsworth Conservation Area. The highway improvements would suburbanise the currently rural nature of Church Lane causing further harm to the landscape and Marsworth's Conservation. This would conflict with Policies GP35, GP84 and GP53 of the Aylesbury Vale District Local Plan and would fail to comply with the principles of the NPPF to recognize the intrinsic character and beauty of the countryside, to take account of the different roles and character of different areas, to contribute to conserving and enhancing the natural environment, to conserve and enhance the natural and historic environment and NPPF policy. In the context of paragraph 11 of the NPPF, in the opinion of the Local Planning Authority, these adverse impacts would significantly and demonstrably outweigh the benefits of the proposal.
- 3) Had the above reasons for refusal not applied, it would have been necessary for the applicant and the Local Planning Authority to enter into a Section 106 Agreement to secure appropriate contributions towards off-site leisure and recreation facilities. In the absence of such a provision, the Local Planning Authority is not satisfied that the proposal will constitute sustainable development that fulfils a social, economic and environmental role, and the proposal would be contrary to the requirements of the Aylesbury Vale District Local Plan policies GP86, GP87, GP88 and GP94 and to advice in the National Planning Policy Framework.
- 4) Had the above reasons for refusal not applied the applicant would have been requested to submit a Flood Risk Assessment and further information to assess the method of the surface water drainage serving the proposed development prior to the determination of this application. In the absence of such provision the proposal is considered to be contrary to Section 14 of the NPPF.

## 2.0 WORKING WITH THE APPLICANT

- 2.1 In accordance with paragraphs 38 and 39 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 principle the proposal did not accord with the development plan; there are no material considerations apparent to outweigh these matters of principle and therefore the application was refused. The applicant was informed that the LPA would not be supporting the application as the development was considered unacceptable and contrary to the policies within the Local Plan and the NPPF.

## 3.0 INTRODUCTION

- 3.1 The application has been brought to committee as conflicting officer advice has been provided to the applicant during the course of the pre-application and this subsequent application. The applicants were initially advised that the amendments submitted during

the pre-application stage had overcome the second reason for refusal (of planning application 16/02794/APP) relating to the siting of the development and its impact on the landscape, settlement pattern and Marsworth Conservation. As such, it was concluded at pre-application stage that it may be possible to support development on this site provided that the Highway Authority is able to conclude that off-site highway works would overcome the previous reason for refusal relating to highway matters. Subsequently an application was submitted and upon further review, it was identified that the proposal has not addressed any of the previous reasons for refusal and therefore cannot be supported. Following discussions between the agent and officers in light of the situation and to ensure transparency in the determination process it is considered that there is clear justification in this instance for the application to be considered by the Committee.

#### **4.0 SITE LOCATION AND DESCRIPTION**

- 4.1 The application site, approximately 1.4 hectares in extent, is located to the west of the built up area of Marsworth, with the Grand Union Canal lying between the site and the main village. To the southwest of the site is the Aylesbury Arm of the Canal, the junction between the main Canal and the Aylesbury Arm some 80m southeast of the site. Scattered low density housing development is located to the southwest of the Aylesbury Arm. To the northeast of the site is a road, Church Lane, becoming an access track serving buildings associated with Gurney's Farm, and to the southeast is Watery Lane, now a footpath/cycleway, with the former British Waterways yard, now redeveloped for residential use, opposite. The existing dwelling, Canal Bank House, previously known as Canal Bank Farm, is located in the eastern corner of the site, fronting Watery Lane, and is excluded from the application site area. The remainder of the site is grass surfaced, the land having the appearance of paddock land. A small linear stable block is located in the northern corner.
- 4.2 The Marsworth Conservation Area (CA) extends along the north-eastern and south-eastern site boundaries, the former British Waterways yard and Gurney's Farm along with the canal bridges all within the CA. The Watery Lane canal bridge, the lock to the southeast of the bridge and the lock cottage are listed structures.

#### **5.0 PROPOSAL**

- 5.1 The application seeks full planning permission for the erection of six dwellings, comprising of two sets of semi-detached properties and two detached dwellings in two courtyard arrangements. One courtyard is located to north-east of the site with the remaining courtyard being located to the south-east of the site adjacent to Watery Lane. The remainder of the site is shown to be an open meadow lawn.
- 5.2 The properties are contemporary in design with a staggered arrangement of two parts with a single storey link connecting the buildings. The section of the building that projects the furthest measures 17.8 metres in length by 6 metres in width and has ridge height of 6.1 metres. The ground floor of this element of the building contains a w/c, utility, kitchen, dining room and living room with a mezzanine floor providing a home working room. The remaining, shorter projection of the dwelling extends 13.6 in length by 6 metres in width and with a ridge height of 7.6 metres. This element contains two bedrooms on the ground floor with a garage and bathroom. At first floor there are a further two bedrooms, one with an en-suite and a bathroom. The single storey link connecting the two elements of the building forms an entrance to the property.
- 5.3 The buildings are shown to be constructed in red clay tiles for part of the roof and walls with the remaining part being constructed with slate rooves, black stained larch walls and cedar timber gable ends.

5.4 Each property is served by three on-plot parking spaces, one space within the integral garage and a further two spaces to the front of the dwelling either in a tandem arrangement or independently accessible.

## 6.0 RELEVANT PLANNING HISTORY

69/00024/WG - Erection of detached farm bungalow at – Approved

93/02027/APP - REMOVAL OF AGRICULTURAL OCCUPANCY – Refused

98/00424/APP - ERECTION OF CAR PORT/WORKSHOP – Refused

98/01654/ACL - THE USE OF THE DWELLING NOT IN ACCORDANCE WITH CONDITION (4) IMPOSED UPON WG/24/69 RESTRICTING OCCUPATION TO AN AGRICULTURAL WORKER – Certificate Issued

99/00136/APP - Erection of carport/workshop – Refused

06/03124/APP - Demolition of existing and erection of replacement five bedroom dwelling – Refused

09/01213/APP - Two storey side and single storey rear extension, front porch, dormer windows to side elevation and balcony to rear – Approved

09/A1213/NON - Non Material Amendment to planning permission 09/01213/APP relating to changes to fenestration at front and rear of property. – Approved

16/02794/APP - Erection of five detached dwellings with associated garages and formation of new access. – Refused

## 7.0 PARISH/TOWN COUNCIL COMMENTS

Marsworth Parish Council:- Objects to the application

“The Parish Council oppose this application 18/01450/APP on the following grounds

The area is a working Farm used by horse owners and is divided into Paddocks. The use as such requires very little use of vehicular traffic as the owners usually go on foot and then ride. The change of name of the property from Farm to House appears to give the impression that it is not a farm, which it still is. This is a Greenfield site, used as a farm. This area of land is not within the curtilage of the village and would become a satellite development, not infill. Greenfield land usage is against VALP S1, also we believe D3.

The land borders the Conservation area of Marsworth and the views from that area would be spoiled. Church Lane is just that, it is a lane, it is not designed to take a greater traffic flow. The Lane is mentioned in the Conservation Booklet, the narrow width and falling gradient of the lane creates a sense of enclosure which is reinforced by the grass banks. The attempted build of a footpath would destroy the look, feel and character of this area, but would not solve the problem of the narrow Canal Bridge, therefore putting pedestrians at greater risk. The lane runs through an area that has several listed buildings and the changing of the area by building a modern footpath would destroy the area.

The increased traffic flow would cause more danger in the area by the school in Vicarage Road, as motorised transport would be the preferred method of transport by residents. The traffic flow from Marsworth Wharf is now similar as to when it was a working Yard. The applicant states bus routes through Lower Icknield Way, stating the route numbers, giving the impression of several services. The only service is the two hourly 164 Bus that takes a roundabout route to nearby towns. The other services were lost about 5 years ago. This means more reliance on the car. The traffic flow

given by the applicant is for 2013 and outdated. Increased usage would create a danger for families using the Recreation Ground, via Church Lane, against VALP BE3.

The land is historical flood plain, the run off from the Wharf has at times made the lane impassable, and the water finds its way across the proposed site to the Canal.”

## 8.0 CONSULTATION RESPONSES

- 8.1 Ecologist:- These proposals involve the development of an improved grassland field and are therefore likely to have a negative impact upon biodiversity if unmitigated. The application was accompanied by an Ecological Impact Assessment in which the report is considered to act as an accurate account of the species and habitats currently found on the proposed development site. Detailed conditions required to ensure the development secures a net ecological gain in accordance with the NPPF.
- 8.2 Buckingham and River Ouzel Drainage Board:- Raised no comments
- 8.3 Environment Agency:- The environmental risks in this area relate to foul drainage/ wastewater. In respect to foul drainage, new development should be connected to the public mains, where possible. Proliferation of individual treatment plants can cause deterioration in the local water quality (ground and surface water). This would be contrary to EU Water Framework Directive and is supported by paragraph 109 of NPPF.
- 8.4 SUDs:- Objects to the proposed development. Further detail is required regarding surface water management. Information provided is not sufficient ground water investigations and monitoring results are required to ascertain whether a soakway is a viable method for surface water disposal.. If infiltration techniques are found to be unfeasible then an alternative discharge receptor will have to be investigated. The applicant has proposed a soakaway in an area of high groundwater. The proposal for a soakaway at this site is not suitable for an area of such high groundwater.
- 8.5 The Map for Surface Water Flooding show both Watery Lane and Church Lane at risk of surface water flooding which may raise concerns of safe access and egress. The LLFA also hold a record of flooding on Watery Lane.
- 8.6 The applicant is required to provide a Flood Risk Assessment as the site is over 1ha, in line with footnote 50 of section 14 of the NPPF. Whilst outside of the LLFA remit, it is noted that the site is expected to have high groundwater levels and therefore the proposed foul drainage scheme is unlikely to be viable.
- 8.7 Arboriculturalist: There are some documents that relate to trees, however nothing that evaluates the relationship between trees and the proposed development, from demolition through construction, and looking at the long term prospects. Trees are a material consideration in the planning process. Therefore the applicant must be able to demonstrate that they have considered the impacts to trees, and reference any mitigation measures they are employing to reduce those. This need to be prior to determination, and lack of this info could for a reason for refusal.
- 8.8 Heritage:- Canal Bank House is situated immediately adjacent to the Marsworth Conservation Area which is a designated heritage asset. The CA extends along the north-eastern and south-eastern site boundaries. The site is also within close proximity to a group of Grade II Listed canal structures, which include the Watery Lane Road Bridge over the canal, adjacent Locks 1 and 2 and the Canal House (Bridgeways). These are designated heritage assets. To the north of the site is Gurney's Farm House a non-designated heritage asset which makes an important contribution to the character and appearance of the Conservation Area.
- 8.9 To overcome concerns raised by Highways, the proposal includes a scheme to introduce a new footway along the northern side of Church Lane. The highway improvement required to Church Lane would negatively impact on the character of the Conservation Area. This character would be further harmed by the overall widening of lane.

- 8.10 Although it is welcomed that the clusters have been positioned to retain a large open space this does result in the new buildings following the conservation area boundary, blocking views currently available.
- 8.11 Whilst it is acknowledged that the current scheme is an improvement from the previously refused scheme, the existing form of development in this area of the conservation area is that of single dwellings in large individual plots which the current scheme does not reflect. Locks 1 and 2, Bridge and Canal House are listed. The proposed buildings are positioned to retain the open nature directly adjacent the canal protecting the setting of the LBs.
- 8.12 The proposal causes less than substantial harm to the significance of a designated (conservation area) and non-designated heritage asset. The application does not comply with the relevant heritage policies and therefore unless there are sufficient planning reasons, it should be refused for this reason
- 8.13 BCC Highways:- The Transport Statement (TS) includes information that has been submitted previously and therefore the comments relate to the new scheme of highways works, which include the removal of the existing raised island and replacement with a low level build out, the introduction of a 2m wide footway stretching part way along Church Lane and Carriageway widening works part way along Church Lane.
- 8.14 The plans submitted as part of this application show the carriageway width to be inadequate which is unacceptable. Concerns also remain over the lack of footway further along Church Lane.
- 8.15 The 'low level build out' adjacent to the junction into the site will be over-runnable, and tracking drawings which have been submitted do not reflect the refuse vehicles used by AVDC. This current proposal does not overcome concerns relating to the highways issues surrounding the application and therefore it is recommended that this application is refused on grounds relating to highway safety due to the conflict between users, reliant upon private vehicles and inadequate width and alignment to serve the proposed development.
- 8.16 Canal and River Trust:- The submitted drawings appear to be largely as the pre-app submission, and therefore the Trusts comments made at that time are still applicable. This appears to be a well-considered and thoughtful approach to development of this site, rooted firmly in the local vernacular, but with a refreshing modern take on traditional forms and layout. It is located adjacent to the existing development within the Watery Lane area of Marsworth and does not seek to encroach too far towards the canal or into the open countryside and, as such, creates a small enclave similar to that at Startops End nearby. Being located adjacent to Watery Lane, the property closest to the canal in the southern corner does not impact greatly upon the canal, or the listed canal bridge and, it could be argued, has less impact upon the canal corridor and its historic assets than Marsworth Wharf immediately to the east.
- 8.17 Both the hard and soft landscaping materials chosen appears to be of a reasonable quality, and the planting proposed is acceptable, especially as much of the ornamental planting is located away from the waterside, and not visible from the canal. The use of timber wire fencing within hedgerows for boundaries will reinforce the semi-rural nature of the site. As such, the development will have a negligible impact upon the understanding, significance or enjoyment of the canal and is therefore acceptable. Should the application be approved it is recommended that an informative is appended to the decision advising the applicant to contact an Officer within the Canal and River Trust.

## 9.0 REPRESENTATIONS

- 9.1 A total of 26 representations were received, 25 in objection and 1 in support in addition to a supporting statement from the applicant. The representations received have been summarised and are as follows:

Objections:



- Residential Amenity (overlooking, loss of light and overshadowing)
- Existing site access and highway unsuitable for the development
- Not enough room for highway improvements
- Visibility issues, highway safety concerns, lack of footpaths, conflicts between road users
- Traffic generation would lead to additional noise
- Concern over information submitted.
- Parking
- The site could be prone to flooding
- Inappropriate development
- Query the notion that the proposed development would be an asset to the local community
- No affordable housing is to be provided which is the need in Marsworth.
- Development is not needed as there is a number of dwelling for sale within the area
- Impact on Greenbelt
- Disruption caused by surrounding development
- Name change of the host dwelling (Canal Bank Farm to Canal Bank House)
- Status of the land and surrounding building
- There are brownfield sites identified in the local area
- Developers reference to existing structures on site is not accurate
- Impact on the scenic and attractive landscape, its visual appearance and associated views.
- Reference to policies within VALP
- Impact on the conversation area and setting of the church
- Loss of trees and hedgerow
- The wharf redevelopment site and closure of Waterly Lane were both in place when the previous application for the site was refused.
- Significant intrusion into the open countryside as outside of built up area of Marsworth
- Acknowledgement of the success at the Wharf site however this was a redevelopment of a brownfield site
- Design
- Increase in traffic will result in adverse noise impact on the peaceful nature of the site
- Assertions made within the information submitted
- Limited change from the previously refused application.
- Development deviates from Local Plan
- Precedent
- Limited awareness of developers initial consultation
- Ownership of Lane where improvements are proposed
- Loss of Individual Views
- Impact on Human Rights
- More sympathy if dwelling had local occupancy clauses attached
- Increase in claims of damage to vehicles
- Animal Danger
- Broadband has made working from home easier
- Impact on Broadband
- Emerging Local Plan (VALP) has identified Marsworth as being suitable to accommodate significant future housing.
- Disputing the argument put forward that Marsworth needs more people
- Disagree with argument that the development will boost the small primary school
- Intentions of the proposal are for financial gain
- Problem selling existing new builds as they are expensive and lack local services

Support:

- Development will provide opportunity for growing families and allow people to return to the village
- Housing storage
- No site is ever going to be universally accepted, particularly in a village environment
- General presumption towards consent that national policies and common sense endorse
- Views of Gurneys Farm are limited to roofs over a tall hedge
- Disregard concerns regarding flooding
- Site has been in use as 'horsiculture' for many years and not been a farm for a great many years
- No recorded injury accident on Church Lane
- Previous application was refused in part due to traffic concerns however the situation has now changed since the closure of Watery Lane.
- No amount of development on the subject site would match the traffic as it used to be.
- Design
- Pathway could be a useful addition but would like to see all of Church Lane as a pedestrian priority mixed traffic area in the future.
- Conflicts between users of the highway are non-existent (based on scenario at a different location).
- The banked margin has encroached substantially onto the lane over the years (when comparing photographs) and therefore cutting it back would be a historic restoration rather than a loss.
- The design and layout of the scheme is appropriate for the rural location

In addition to the above comments being received, a statement was received from the applicant in support of their application.

## 10.0 EVALUATION

### **a) 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. The starting point for decision making is the development plan, i.e. the adopted Aylesbury Vale District Local Plan (and any 'made Neighbourhood Plans as applicable). 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.
- 10.2 Marsworth does not have a neighbourhood plan and therefore consideration falls on the relevant policies in the AVDLP in context of paragraph 11 of the NPPF.

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

- ***Sustainable location***

- 10.3 The Government's view of what 'sustainable development' means in practice is to be found in paragraphs 7 to 211 of the NPPF, taken as a whole (paragraph 3). The National Planning Policy Framework (NPPF) has a presumption in favour of sustainable development for both plan-making and decision-making.
- 10.4 It is only if a development is sustainable when assessed against the NPPF as a whole that it would benefit from the presumption in paragraph 11 of the NPPF. 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.
- 10.5 AVDLP identifies Marsworth as set out in Appendix 4 as a settlement where policies RA.13 and RA.14 would apply limited infilling or rounding off would be appropriate, these policies are out of date as outlined within the Overview Report.
- 10.6 Marsworth is identified in the Settlement Hierarchy Assessment for the submission Plan (September 2017) as a Medium Village. 'Medium villages' are settlements defined as typically having a population of between around 600 and 2,000 and have between 6 – 7 of the key criteria (*within 4 miles of a service centre, employment of 20 units or more, food store, pub, post office, GP, village hall, recreation facilities, primary school, hourly or more bus service and train station*). Medium villages have some provision of key services and facilities, making them moderately sustainable locations for development. On this basis, it is therefore accepted that Marsworth itself is a moderately sustainable location for limited development subject to the scale of growth that could reasonably be considered sustainable not only in terms of its impact on the localised site and surrounding but also in terms of the wider capacity of the village to accept further population growth, having regard to its impact on the infrastructure and local services and the community itself.

- ***Build a strong competitive economy***

- 10.7 The Government is committed to securing and supporting sustainable economic growth and productivity but also that this would be achieved in a sustainable way. Paragraph 80 states that planning policies and decisions should help to create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 10.8 It is considered that there would be economic benefits in terms of the short term benefit in the construction of the development itself and in the long term the resultant increase in population contributing to the local economy. As such, it is considered that the economic benefits of the scheme whilst significant, due to the scale of the proposed development would only attract limited positive weight in the overall planning balance.

- ***Delivering a sufficient supply of homes***

- 10.9 Local planning authorities are charged with delivering a wide choice of sufficient amount of and variety of land 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. In

supporting the Government's objective of significantly boosting the supply of homes, paragraph 61 states that within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes.

- 10.10 In respect of affordable housing, GP.2 of the AVDLP requires a minimum of 30% affordable housing to be provided on site for schemes providing 25 dwellings or more or a site area of 1 ha or more. The affordable housing should be evenly distributed across the site. Whilst the proposal seeks the provision of 6 dwellings, the site area does exceed 1 ha and therefore would typically require affordable housing. However, due to the size of the developable area of the site being less than 1 hectare (with the remainder of the site shown to be an open meadow lawn) and the quantum being 6 houses, it is considered to be unreasonable in this instance to seek an affordable housing contribution. As part of this current application no affordable housing is to be provided and therefore the proposed development does not comply with GP.2 of the AVDLP.
- 10.11 With regard to residential mix, all six of the proposed dwellings are shown to be four bedroom properties and therefore the proposed scheme does not provide a mix of housing. Where possible the Local Planning Authority does seek to ensure a mix of properties are being provided within a scheme. However in this instance, the lack of housing mix alone when taking account of the scale of the development would not be significantly harmful to warrant the refusal of this application. The 2018 NPPF introduces a requirement for 10% of the homes to be available for affordable home ownership on major housing development proposals. Given this application seeks the erection of 6 dwellings, the scale of the development falls below the threshold of what constitutes major housing development proposals (ten or more residential units) and therefore this new requirement under the NPPF is not applicable.
- 10.12 Overall, in respect to housing provision, whilst there is no reason that the site could not be delivered within the next five year period making a contribution to housing land supply which is a public benefit to which positive weight should be given, owing to the small scale of development proposed such a contribution is limited; also the Council can demonstrate a 11.7 years housing land supply such the level of positive weight to be attributed to housing in this case is considered to be limited positive weight in the overall planning balance.

- ***Promoting sustainable transport***

- 10.13 It is necessary to consider whether the proposed development is located where the need to travel will be minimised and the use of sustainable transport modes can be maximised and that safe and suitable access can be achieved, taking account of the policies in the NPPF. Paragraph 108 requires that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that appropriate opportunities to promote sustainable transport modes can be taken up, safe and suitable access to the site can be achieved and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Paragraph 109 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 10.14 In respect of transport sustainability, the application site is located outside the built up area of Marsworth and would be accessed from Church Lane an unclassified road. Within the vicinity of the site there is a lack of footways and access to public transport links, resulting in the occupiers of the development being overly reliant upon the use of private motor vehicles. This is further exacerbated by Marsworth itself having only a small number of local amenities and therefore increasing the need to travel. As such, the proposed

development is considered to be sited in a remote location, detached from local services, footpaths and public transport links and is therefore not sustainable from a transport perspective and would be contrary to the aims of local and national policy.

- 10.15 The section of Watery Lane which adjoins the site has been closed to vehicles to prevent through traffic and therefore the only vehicular access to the site is Church Lane. There is some debate as part of this application as to when this closure took place in respect to this application, however this has little bearing on the assessment of this application. As outlined above Church Lane lacks footways. In addition to this it suffers from inadequate width in both directions to allow two vehicles to pass each other which is further compounded by poor levels of visibility. The Lane crosses the canal on a narrow hump-backed bridge with no footways and further restricted forward visibility. Both the junction to the site off of Church Lane and the junction between Church Lane and Vicarage Road suffers from restricted levels of visibility.
- 10.16 Prior to the submission of this current application, extensive dialogue took place between the applicant and the Highways Engineer at Buckingham County Council in order to try and overcome the previous reason for refusal relating to highway matters as part of application 16/02794/APP. The reason for refusal was as follows:

*'The location of the site is such that it has only limited access by non-car modes of travel. The absence of adequate infrastructure and the site's remoteness from the built up area and village amenities is such that it is likely to be reliant on the use of the private car. Furthermore, the local highway network serving the site is inadequate by reasons of its width and alignment to serve the proposed development with safety and convenience and the absence of footways would lead to conditions of danger to pedestrians walking to or from the proposed development. The proposed development therefore comprises unsustainable development that fails to accord with advice in the National Planning Policy Framework.'*

- 10.17 Following these discussions a highways improvement scheme has been provided within the Transport Statement and improvements comprise of:
- A new footway to follow Watery Lane to the access with the wharf (and formerly junction with Watery Lane).
  - Alter the junction at the wharf by changing the layout into a single access with a width of at least 4.8 metres for the first 7 metres (minimum) allowing the pavement under the splitter triangle to be reinstated.
  - 2 metre footway will be provided from the canal bridge to the Old Manor.
  - It is likely the carriageway will be raised slightly to reduce the requirement for slope supporting structures and the carriageway will be shifted laterally.
  - Pedestrian priority could be extended through the bridge by use of road markings as the proposed footway is to be terminated at the canal bridge.
  - Speed limit review with the possibility of applying 20mph speed limits or 30mph speed limit throughout.
  - Carriageway widening works part way along Church Lane.

- 10.18 As part of the initial discussions, prior to submitting this current application the Highways Engineer requested the provision of a 4.8 metre wide carriageway and an absolute minimum 1.8 metre wide footway along Church Lane. The highway improvements submitted as part of this current application differ from the proposal submitted as part of the pre-application with Buckingham County Council's Highways Department. The highway improvements currently proposed include a 2 metre wide footway along the northern edge

of Church Lane and only minor widening works to the Church Lane carriageway. These minor widening works would provide a carriageway of between 3.1m and 3.5m for approximately 40m. After this initial 40m the carriageway would be widened further to approximately 4.1m for 15m, for another 10m the carriageway would be widened to approximately 4.8m, before narrowing again to between 3.9m and 4.3m for another 27m adjacent to the parking bays. It should be noted that the parking layby should be a minimum of 2m wide, therefore alterations would be necessary in this area. In summary, the highway improvement plans submitted as part of this current application only show an adequate carriageway width for approximately 10m, the remainder of the carriageway would still be too narrow to accommodate simultaneous, two way vehicle flow and would be unacceptable. Therefore the access to the proposed development would be inadequate to serve the proposed development and associated construction traffic (whilst for a temporary period), deliveries and increase in residential traffic.

- 10.19 There is currently no provision of footpaths along Church Lane in order to provide separation between some of the users of this highway. In respect to the footways proposed, concerns remain in respect to the lack of footway further along Church Lane, between the termination of the proposed footway and the junction with Vicarage Road. There also remains a potential for conflict between pedestrians and vehicles at the humpback bridge, alongside the generally unsustainable nature of the site. It is recognised that the canal towpath, a public footpath, would provide an alternative route for pedestrians from the site to Vicarage Road. This route, however, would be a longer if used to access the school, church, village hall or bus stops on Lower Icknield Way. Services are located approximately between 350 metres to 650 metres from the site. In addition, the towpath is unlikely to attract many users in adverse weather conditions or the hours of darkness. Consequently Church Lane would likely be the primary route between the site and the village both vehicular and pedestrians traffic.
- 10.20 The 'low level build out' adjacent to the junction into the site will be over-runnable, and tracking drawings have been submitted showing a 6.6m long refuse vehicle using the junction. Aylesbury Vale District Council's waste collection team use an 11.2m long refuse vehicle to perform their collections, therefore this size vehicle must be shown servicing the site, including the manoeuvring throughout the site and the site access. Given the submitted plans do not accurately portray the size of the refuse vehicles used by the District Council it is not clear as to whether the site could be adequately serviced.
- 10.21 The residential development to the south-east of the site, at Marsworth Wharf, was approved in 2010 under application (10/01336/APP) without a highway objection. This was due to the fact that the site comprised of previously developed land, with the previous commercial usage on the site having the potential to generate a greater number of vehicular movements than the proposed residential use. It was therefore considered that a highway objection could not be sustained. The circumstances at the application site significantly differ from the Marsworth Wharf site as the application site is a greenfield site used as paddock land. Therefore the siting of 6 new residential units would generate an increase in vehicle movements when compared to the existing use of the application site.
- 10.22 One of the main points within the submitted Transport Statement and the statement submitted by the applicant is the permanent use of the paddocks and stable block (application site) for four horses and the associated vehicular movements with these activities. It is argued within the Transport Statement that these activities at the site generate 18 two-way vehicles per day. Although there is no direct evidence to refute this figure, no robust evidence has been put forward as part of this application to support this figure. It is considered that this figure is unusually high given the site is only utilised for the grazing and stabling of four horses. Whilst this is noted, the site is located in an unsustainable location for the development proposed, and, notwithstanding the arguments made within the Transport Statement, would result in an increase in the usage of a substandard road network and therefore would likely result in an intensification of existing highway issues.

- 10.23 The highway matters raised above have been repeatedly relayed to the applicants at every stage to ensure that they are aware of the nature of these issues. However, despite extensive discussions between the Highways Engineer at Buckingham County Council and the applicant with their agent (including many detailed highway responses) the highway improvements submitted as part of this application are not sufficient to overcome the number of highway related issues that the site suffers from.
- 10.24 The Highways Engineer has not raised any concern with the highway data which has been submitted.
- 10.25 To conclude, the location of the site is such that it has only limited access by non-car modes of travel. The absence of adequate infrastructure and the site's remoteness from the built up area and village amenities is such that it is likely to be reliant on the use of private car. Furthermore, the local highway network servicing the site is inadequate by reasons of its width and visibility to serve the proposed development with safety and convenience and the absence of footways would lead to conditions of danger to pedestrians walking to or from the proposed development. It is considered that these adverse impacts represent significant harm which should be afforded significant negative weight in the planning balance. The development is contrary to the National Planning Policy Framework and the aims of Buckinghamshire Local Transport Plan 4.

#### *Parking*

- 10.26 AVDLP policy GP24 requires that new development accords with published parking guidelines. SPG 1 "Parking Guidelines" at Appendix 1 sets out the appropriate maximum parking requirement for various types of development.
- 10.27 Each dwelling contains four bedrooms and therefore in accordance with the Parking Guidelines there is a requirement for three on-plot parking spaces. The submitted proposed site layout shows three on-plot parking spaces to be provided for each of the properties and therefore the proposed development is considered to comply with GP.24 of the AVDLP and the SPG 1 Parking Guidelines. This element in relation to parking provision should be afforded neutral weight in the overall planning balance.

- **Conserving and enhancing the natural environment**

#### *Previously Developed Land*

- 10.28 The submitted Planning Statement outlines that the siting of stables and hardsurfacing constitutes previously developed land under the NPPF. Reference is also made to a ménage at the site however there was no evidence of this when carrying out a site inspection. The definition provided within the NPPF states '*land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings...*'. Whilst the argument could be made that the stable building and a small amount of hardsurfacing could constitute previously developed land as they are not associated with an agricultural use, this does not result in the entire site being previously developed land.
- 10.29 Paragraph 84 states that 'the use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist'. Although the NPPF seeks to encourage the re-use of previously developed land, this is subject to the proposed development not resulting in any adverse impacts. The application is not considered to be physically well related to the existing built up settlement of Marsworth, due to the concerns raised above in the transport section of this report. The horse stables and small amount of hardsurfacing only make up a small amount of the site. Furthermore, equine uses are considered appropriate within the open

countryside and therefore are not an uncommon feature. The stable block located within the site is low level and sympathetic to its surroundings when compared to the siting of six residential units, each containing a two-storey element. The proposed development is therefore considered to result in adverse impacts in respect to highways, landscape and the conservation area and therefore whilst the re-use of previously developed land is encouraged, where appropriate, this is tempered as it does not provide carte blanche over the land and any other materials planning considerations. The majority of the application site is a greenfield site and therefore residential development located outside of the built up area of Marsworth's settlement, in open countryside where development is normally restricted, is considered to cause significant landscape impacts which are not outweighed by the benefits of the scheme.

- 10.30 In addition to this, it is noted that within the submitted Planning Statement there is an extract from what appears to be the British Waterways showing the extent of the village boundary for Marsworth. However there is currently no neighbourhood plan for Marsworth and as such no up to date defined settlement boundary.

#### *Landscape*

- 10.31 In terms of consideration of impact on the landscape, proposals should use land efficiently and create a well-defined boundary between the settlement and countryside. Regard must be had as to how the development proposed contributes to the natural and local environment through protecting and enhancing valued landscapes and geological interests, minimising impacts on biodiversity and providing net gains where possible and preventing any adverse effects of pollution, as required by the NPPF. The following sections of the report consider the proposal in terms of impact on landscape, agricultural land, trees and hedgerows and biodiversity.
- 10.32 Section 15 of the NPPF states planning policies and decision should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils and recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.
- 10.33 Policy GP.35 of the AVDLP 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; and the effect on important public views and skylines. This policy is considered to be consistent with the NPPF.
- 10.34 Policy GP.38 states that development schemes should include landscaping proposals designed to help buildings fit in with and complement their surroundings, and conserve existing natural and other features of value as far as possible.
- 10.35 Policy GP.84 states that development affecting a public right of way the Council will have regard to the convenience, amenity and public enjoyment of the route and the desirability of its retention or improvement for users, including people with disabilities. Planning conditions will be imposed on planning permissions, or planning obligations sought, to enhance public rights of way retained within development schemes.
- 10.36 There are no specific landscape designations associated with the application site nor within close proximity to the site which would be affected. The site is bounded to the northeast by the end section of Watery Lane, with buildings previously associated with Gurneys Farm now in residential use lying opposite. To the southeast is Watery Lane, with the development on the former British Waterways yard opposite. To the southwest the site is bounded by the Aylesbury Arm of the canal with partly open land beyond, and to the northwest the boundary is to open land. The site is viewed at close range across the canal from the canal towpath, and from Watery Lane. Although there is residential development in the vicinity, the area to the west of the mainline canal, apart from the former yard site, has the character of open countryside with scattered development within it, rather than the



character of land forming part of the settlement. Similarly, there is a gap between the canal and the built up area of Marsworth further east, the canal for the most part is seen within a countryside setting and provides a physical boundary between the built up area of Marsworth and the open countryside within which the application site is located. Residential development within the open countryside is typically restricted and would normally constitute as inappropriate development.

- 10.37 The application site is situated in open countryside within the Pitstone-Edlesborough Slopes Landscape Character Area (8.4) (LCT 8). This Landscape Character is defined as *'gently undulating landscape lying below the Chiltern Foothills which gradually merges into the flat vale landscape to the north. The area is crossed by the west coast mainline railway and the Grand Union Canal. Drained by numerous streams and brooks fed by local springs rising at the interface with the Foothills to the south. Extensive arable field system but with smaller paddocks adjacent to settlements and remnant orchards'*. The site itself is a paddock adjacent to the settlement of Marsworth and therefore is representative of one of the key characteristics of this Landscape Character Area. This paddock makes a positive contribution to the immediate landscape character of the area. The landscape qualities of the site would be adversely impacted were the development to go ahead as the harmful impact on this baseline landscape could not be mitigated.
- 10.38 This area of land to the west of the built up area of Marsworth is rural in character and provides an attractive setting at the edge of the village, positively contributing to the verdant and rural character of this section of Watery and Church Lane. It is acknowledged that there are residential properties located within close proximity to the application site.
- 10.39 Within the vicinity of the site it is acknowledged that there is evidence of sporadic clusters of residential dwellings. As a result of the proposed development there would be a harmful change to the rural character of area as the erection of 6 residential dwellings in this location would result in the coalescence of these sporadic groups of buildings, creating a dense cluster within the open countryside. The siting of six residential dwellings would result in an uncharacteristic intensification of density of built form, creating a more formal arrangement that would be at odds with its surroundings.
- 10.40 As part of the application a 'open meadow lawn' is proposed. Whilst there may be ecological benefits to the creation of a 'meadow lawn', the submitted Design and Access Statement outlines *'the site with the inclusion of a wild flower meadow suitable for pollinators. It will also provide an amenity use for the residents of the 6 new dwellings, with the corner closest to them intended as a mown lawn area which could be used for incidental gatherings such as picnics and summer barbeques'*. The statement goes on to state *'with most of the site left as open field, there is a great opportunity to utilise a small proportion of the land to install photovoltaic panels to generate electricity for the proposed homes'*. Therefore the 'squared-off' piece of land shown as 'meadow lawn' is likely to appear manufactured and not in keeping with the surrounding grassland of the open countryside. It is also likely that if granted, the amenity area available to the residents of development within this open space will increase over the years, resulting in urban creep thus further disrupting the rural character of the area. It is also not clear from the information provided as to the maintenance intentions for the open area as two plans submitted within the submitted Design and Access Statement conflict with each other. In one plan the eastern corner is shown to be an area of amenity space for residents with a different plan showing this area to be possibly used for photovoltaic panels.
- 10.41 There are a number of visual receptors within close proximity to the site, including nearby residents and users of the surrounding footpaths and canal. To the south-west of the application site is footpath MAR/16/1 which is located across the Aylesbury Arm with footpath MAR/15/2 being located to the north-east of the site. In addition to this, Watery Lane is also extensively used by pedestrians. The south-eastern boundary along the site has a mature hedgerow and trees which, although in the summer time interrupts continuous views of the site, has much more limited effects in winter months when leaves have fallen from the deciduous vegetation. Furthermore, when travelling northwards over

the humpback canal bridge on Watery Lane the prominent views are available across the site. The siting of residential development in this location would result in a harmful change to the baseline rural views that would be experienced from these visual receptors. Whilst it is noted that positive comments have been received from the Canal and River Trust in respect of their assessment of the impact of proposed development on the canal, for the reasons outlined above and further within the report these views are not shared by Officers of the Local Planning Authority.

- 10.42 In addition to this, highway improvements are proposed in the form of providing a 2 metre footway along a section of Church Lane. In order to accommodate the 2 metre footway the existing lane will need to be widened cutting into the landscaping and the bank of the lane. These works will further cause harm to the landscape and rural character of the area as the existing lane will appear more urban in form.
- 10.43 Overall, the proposal would result in the development of a greenfield site resulting in a significant intrusion into open countryside, being visually intrusive and causing harm to the openness of the site and the intrinsic rural character of the area. The proposed development would fail to complement the existing settlement character and identity, and would result in significant adverse impacts on the landscape character and visual amenity of the site and surroundings and the rural character and appearance of the site. The proposed development fails to accord with policy GP.35 and GP.84 of the AVDLP and the NPPF and therefore should be afforded significant negative weight in the planning balance.

#### *Agricultural Land*

- 10.44 Paragraph 170 of the NPPF advises that Local Planning Authorities should take into account the economic and other benefits of the best and most versatile agricultural land and, where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. There is no definition as to what comprises 'significant development' in this context but the threshold above which Natural England are required to be consulted has been set at 20 hectares so the site falls well below this threshold.
- 10.45 The application is not accompanied by evidence to demonstrate the agricultural land classification. Council records indicate the land is within category 3 (good to moderate quality agricultural land). As such it is considered that the site could comprise the best and most versatile agricultural land (i.e. Grade 3a or better) and the application has not been supported by a site-specific Agricultural Quality Assessment to clarify otherwise. The proposal would result in the permanent loss of the greenfield land from agricultural production and, in the absence of evidence to the contrary, this loss of potentially versatile agricultural land (albeit at the moderate end of the scale and a relatively small amount) would be in conflict with paragraph 170 of the NPPF. The loss of agricultural land is therefore considered a factor that should be afforded limited negative weight in the planning balance.

#### *Trees and hedgerows*

- 10.46 Policies GP.39 and GP.40 of the AVDLP seek to preserve existing trees and hedgerows where they are of amenity, landscape or wildlife value.
- 10.47 The site is primarily open grass land with existing trees and hedgerow forming the perimeter of the site, with the submitted landscape scheme showing the perimeter landscaping to be retained. As result of the proposed layout the rear garden boundaries for plots 1, 2, 5 & 6 will be formed using the existing hedge field boundary. There is some concern where residential gardens are designed to utilise an existing field boundary as part of the boundary treatment serving private residential gardens as there is no certainty that

this existing positive landscape feature will be retained in perpetuity. It is considered not to be reasonable to condition the retention of landscape for more than five years and therefore beyond this point residents may seek to remove this boundary in order to gain greater views of the countryside. Whilst this arrangement is not ideal it is considered that this would not be of such significance to warrant the refusal of this application. Plots 4 and 5 in particular are located within close proximity to the boundary with Watery Lane where there is mature planting and trees. These trees form part of the boundary serving Watery Lane, which positively contributes to the rural character of Watery Lane and provides mitigation between the properties at the Wharf and the proposed development. As part of this application insufficient information has been provided to ascertain the impact the proposed development will have on these trees. However, if the above reasons for refusal had not applied, further information would have been sought in regard to this matter or alternatively this information could have been conditioned. For this reason this matter is afforded moderate negative weight in the planning balance as the impact is unknown.

#### *Biodiversity/Ecology*

- 10.48 Paragraph 170 of the NPPF requires new development to minimise impacts on biodiversity and provide net gains in biodiversity.
- 10.49 This current application was accompanied with an Ecological Impact Assessment which notes that the site consists of mainly grazed field and amenity grassland. There are two small buildings on site, which are currently used as a stable and shelter for horses. The submitted report is considered to act as an accurate account of the species and habitats currently found on the proposed development site. The findings outlined concern in respect to an area of suitable reptile habitat to the southern boundary of the site and a loss of breeding bird habitat as a result of the proposed development. To ensure the development is compliant with the NPPF the applicant will need to demonstrate how the proposed development delivers a net biodiversity gain. If permission were to be granted a condition would be imposed to secure a Landscape and Ecology Management Plan and a Construction Environmental Plan, detailing how the development will result in a net ecological gain (including the measures listed in the ecology report). This matter should therefore be afforded neutral weight in the planning balance.

#### • **Promoting healthy and safe communities**

- 10.50 The NPPF seeks to achieve healthy, inclusive and safe places, promoting social interaction, safe and accessible development and support healthy life-styles. This should include the provision of sufficient choice of school places, access to high quality open spaces and opportunities for sport and recreation and the protection and enhancement of public rights of way, and designation of local spaces.
- 10.51 Policies GP.86-88 and GP.94 of the Local Plan seek to ensure that appropriate community facilities are provided arising from a proposal (e.g. school places, public open space, leisure facilities, etc.) and financial contributions would be required to meet the needs of the development.
- 10.52 However, the NPPG was amended in May 2016 such that tariff-style s106 contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1000sqm. In this case the proposed development would exceed 1000m<sup>2</sup> floorspace and therefore if the reasons for refusal had not applied, it would have been necessary for the applicant and the Local Planning Authority to enter into a Section 106 Agreement to secure affordable housing and a financial contribution towards off site sport and leisure facilities in accordance with policies GP86-GP88 of the AVDLP and the Council's SPG on Sport and Leisure Facilities and the associated Ready Reckoner.
- 10.53 As part of this current application Education at Buckingham County Council were consulted

however no response was received. Nevertheless a response from Education was received as part of application 16/02794/APP for the erection of five dwelling at the site where they advised that no educational contribution would be sought.

10.54 Subject to the above, the proposal should be accorded neutral weight in the overall planning balance.

- ***Making effective use of land***

10.55 Section 11 of the NPPF requires that planning policies and decisions should promote an effective use of land while safeguarding and improving the environment and ensuring safe and healthy living conditions, maintaining the prevailing character and setting, promoting regeneration and securing well designed, attractive and healthy places.

10.56 Paragraph 122 of the NPPF relating to achieving appropriate densities states that in supporting development that makes efficient use of land, it should taking into account of the importance the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it.

10.57 The application site is predominately a greenfield site in the open countryside where development is typically restricted. Only a proportion of the site is to be used for the siting of six residential units with a multifunctional meadow lawn being created with the remainder of the site. The scheme would contribute to the housing supply of the District which represents an effective use of the land in policy terms; however, the quantum of development is such that it would result in a development that would lead to an adverse impact in respect to landscape character. As such, whilst the proposal would contribute to housing supply, the proposal would fail to respect or complement the prevailing character of the area and its setting of the village. Therefore, this matter is afforded negative weight in landscape terms in the planning balance, i.e. the loss of greenfield for very limited economic and housing growth benefits does not represent the 'best use of land'.

- ***Achieving well designed places***

10.58 The NPPF in section 12 states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

10.59 Planning policies and decisions should ensure that developments will function well and add to the overall quality of the area over the lifetime of the development; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space).

10.60 Permission should be refused for developments exhibiting poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides. The overview report sets out Paragraph 127 of the NPPF states that planning policies and decisions should ensure that developments comply with key criteria.

10.61 Policy GP.35 of the AVDLP which requires development to respect and complement the

physical characteristics of the site and the 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 and the effect on important public views and skylines. Policy GP.45 is also relevant and that any new development would also be required to provide a safe and secure environment for future occupiers of the site.

- 10.62 The proposed development seeks the provision of six residential dwellings in two courtyard arrangements, three dwellings in each. Providing two pairs of semi-detached dwelling and two-detached dwellings. The dwellings comprise of two linked linear wings. The proposed units are to be located towards the north and south east of the application site adjacent to the highway with the remainder of the site being shown as an open meadow lawn.
- 10.63 It is acknowledged that the scheme now proposed represents an improvement in design and understanding of the local area, in comparison with the scheme previously proposed for this site. Nevertheless, the proposed development still fails to reflect a traditional form and layout associated with the area. Within the immediate vicinity of the site, the traditional form of development is that of a single dwelling in a large individual plot. Whereas the form of the proposed development is two clusters of dwellings within a courtyard arrangement. Whilst it is noted that the dwellings proposed are reflective of the layout at Gurney's Farm, this arrangement occurred due to the conversion of existing agricultural buildings and is not reflective of the wider built form.
- 10.64 In regard to the appearance of the proposed dwellings, the design combines a barn style appearance with contemporary design. The contemporary design is reflective of the development at Marsworth Wharf, with the barn style appearance shown at Gurney's Farm. The dwellings are predominately linear in form with pitched roofs further portraying a modern take on typical agricultural barns and stables. The two linked linear wings are to be constructed from contrasting materials, one wing being constructed in black-stained larch clad with a slates roof and the remaining wing being clay tiles for the walls and roof. The use of clay tiles for the roof and walls of an entire building is unusual and therefore to ensure a satisfactorily appearance, a condition would need to be imposed if permission were to be granted requiring samples of the materials to ensure they are of a high quality.
- 10.65 The design for the proposed new development incorporates a number of sustainable measures in the form of fuel for heat sources, retain 50% of the site as open meadow lawn, materials in accordance with the BRE Green Guide, PV Panels and a red bed infiltration system.

In summary whilst some sustainable design elements are proposed it is considered that these build requirements could not be conditioned as there is no policy basis for securing these measures. Notwithstanding the concerns raised in respect to the form of the proposed development, the appearance of the dwellings themselves are considered to be acceptable and therefore afforded neutral weight in the overall planning balance.

- ***Conserving and enhancing the historic environment***

- 10.66 Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on local authorities to pay special regard to the desirability of preserving the Listed Building, its setting and any features of special architectural or historic interest in which it possesses. In addition to paying attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas.
- 10.67 The NPPF recognises the effect of an application on the significance of a heritage asset is a material planning consideration. Paragraph 193 states that there should be great weight given to the conservation of designated heritage assets; the more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset, or development within its setting. Any harm or loss

should require clear and convincing justification. Paragraph 189 extends this provision to non-designated heritage assets with an archaeological interest. Where a development proposal will lead to less than substantial harm to the significance of the designated heritage asset, paragraph 196 requires this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

- 10.68 Policy GP.53 of AVDLP requires new developments in and adjacent to conservation areas to preserve and enhance the character and appearance of the Conservation Areas. Policy GP.53 of the AVDLP is to be given limited weight as it is inconsistent with the NPPF by failing to incorporate the balancing test contained in paragraph 196 of the NPPF.
- 10.69 Canal Bank House currently occupies a large corner plot on Watery Lane and Church Lane. To the rear of the existing house the garden extends to the canal and to the north-west is a paddock with a stable block and shelter. This application seeks to build six new dwellings within the site surrounding Canal Bank House, to the rear and side of the existing dwelling. This site is adjacent to but outside of the Marsworth Conservation Area and therefore the setting of the Conservation Area. Towards the south of the site are the Grade II Listed canal structures. Church Lane where highway improvements are sought is located within the Conservation Area. Adjacent to the site is Gurney's Farm House which is a building of local note.

*Impact on the Setting of Marsworth Conservation Area (CA)*

- 10.70 Open spaces within and adjacent to the Conservation Area can be important to the character and appearance of the area as a whole. The arrival of the canal (opened in 1799) had an enormous impact upon the physical appearance of Marsworth and its surrounding countryside; the open landscape of the application site currently links the canal and the CA, allowing views of and from the CA. These views are denoted as important views as part of the Marsworth Conservation Area Appraisal. The erection of the six dwellings would result in the loss of these views. Although it is welcomed that the clusters have been positioned to retain a large open space towards the west of the site and along the canal, this does result in the new buildings following the conservation area boundary which would almost entirely block the views of the conservation area from the canal and surrounding area and also impact on views from the CA.
- 10.71 Notwithstanding this, any development should reflect the traditional form, layout and scale of the buildings within the CA. The existing form of development in this area of the conservation area is that of single dwellings in large individual plots. The current application, which is a revised scheme is that of a 'rural' character, which is primarily two clusters of barn structures of varying scales in a courtyard arrangement. Whilst it is acknowledged that the proposed development is considered to be an improvement from the previous refused application 16/02794/AP, which sought a suburban cul-de-sac arrangement, the proposed development still does not reflect the grain of development identified above due to the number of dwellings proposed and their relationship. As such, the proposed development fails to preserve or enhance the character and setting of the adjacent Conservation Area.

*Setting of Building of Local Note*

- 10.72 Adjacent to the site and within the CA, towards the north is Gurney's Farm House, which is a building of local note (non-designated asset) and is described as a prominent building which contributes to the area.
- 10.73 In section 2.48 of the Marsworth Conservation Area document, it describes that this building, when viewed from the towpath, makes an important contribution to the character of the conservation area. This view would be considerably and detrimentally impacted by plots 1,2 and 3 and therefore the setting and the significance of this non designated heritage asset would be impacted upon by the proposal.
- 10.74 By default, as this building contributes positively to the character of the CA, as outlined above, the character of the CA would also be negatively affected.

*Impact to the Conservation Area (CA) – revised access*

- 10.75 To overcome concerns raised by Highways, the proposal includes a scheme to introduce a new footway along the northern side of Church Lane, which is the only vehicle approach road to the development site and is within the Conservation Area.
- 10.76 Church Lane, runs south-westwards from Vicarage Road, past the church and down the hill towards the Grand Union Canal. As outlined within the Conservation Area Appraisal, the narrow width and falling gradient of the lane creates a sense of enclosure which is reinforced by the raised banks, trees and hedges along the part of the lane where the new path is proposed. Views along this part of the lane are channelled by these features rather than the buildings. The boundaries play an important role with the hedgerows, bushes and trees defining the edge of the road and also contributing to its rural character.
- 10.77 To create the new pathway along this section of the road would require the trees, hedgerows and raised bank to be removed and therefore negatively impacting the character of the Conservation Area. This character would be further harmed by the overall widening of the lane.

In summary the proposed development would result in less than substantial harm being caused to Marsworth's Conservation Area and its setting. This identified harm is attributed significant negative weight in the overall planning balance.

*Impact on the Setting of Listed Buildings (LB), Locks 1 and 2, Bridge and Canal House.*

- 10.78 The three structures/buildings are individually Grade II Listed in their own right, but as a group offer an interesting insight in to canal life. It is recognised that apart from the bridge, the LBs are not directly adjacent to the proposal site. In general terms the heritage structures along the Canal are seen within the context of not only the canal, but a largely agricultural landscape, with the various yards, locks, cottages and other associated buildings associated with the canal appearing very much part of this wider landscape, rather than part of established settlements.
- 10.79 As you walk along the canal, which runs parallel to the southern boundary of the proposal site there is currently a sense of openness as you looks towards the LBs. The current proposal has looked at this setting and gathered a better understanding of the character and appearance of the Canal, and the significance of the associated listed building. It has positioned the proposed buildings to retain the open nature directly adjacent the canal, which is welcomed as it therefore goes some way in protecting the setting of the LBs.
- 10.80 Overall, special regard and attention has been given to the statutory tests under S66 and S72 of the Planning (Listed Building and Conservation Areas) Act 1990, which is accepted as a higher duty. Whilst the proposed works would not result in harm to the settling of the nearby Listed Buildings the proposed development would result in less than substantial harm to Marsworth's Conservation Area. The harm which would be caused to the significance of the heritage asset as identified above must be weighed against the public benefits of the proposal in accordance with the guidance contained in the NPPF.

- ***Meeting the challenge of climate change and flooding***

- 10.81 The NPPF at Section 14, 'Meeting the challenge of climate change, flooding and coastal change' advises at paragraph 163 that planning authorities should require planning applications for development in areas at risk of flooding to include a site-specific flood risk assessment to ensure that flood risk is not increased elsewhere, and to ensure that the development is appropriately flood resilient, including safe access and escape routes where required, and that any residual risk can be safely managed. Development should also give priority to the use of sustainable drainage systems.

- 10.82 As part of this current application the applicant is required to provide a Flood Risk Assessment (FRA) as the site is over 1 ha, in line with footnote 50 of section 14 of the NPPF. Footnote 50 states that *'a site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3. In Flood Zone 1, an assessment should accompany all proposals involving: sites of 1 hectare or more; land which has been identified by the Environment Agency as having critical drainage problems; land identified in a strategic flood risk assessment as being at increased flood risk in future; or land that may be subject to other sources of flooding, where its development would introduce a more vulnerable use'*.
- 10.83 Without a flood risk assessment the Lead Local Flood Authority (LLFA) are unable to ascertain the risk of flooding to the proposed dwellings nor are they able to conduct an assessment of the suitable mitigation measures. If the above reasons for refusal had not applied the Local Planning Authority would have sought a Flood Risk Assessment, however given the requirement for one to be provided, the absence of a FRA should be a reason for refusal in its own right as the Local Planning Authority are unable to determine the impact of flooding to the proposed dwellings.
- 10.84 According to the updated Map for Surface Water Flooding both Watery Lane and Church Lane are at risk of surface water flooding for a 0.1 % Annual Exceedance Probability event. Depths of 0.3m on Watery Lane and 0.6m on Church Lane are anticipated, raising concerns of safe access and egress. The LLFA also hold a record of flooding on Watery Lane.
- 10.85 The submitted application form states that the surface water runoff will be managed using a soakaway. As part of this application, insufficient information has been provided in respect to the surface water management for this development. The information provided is not sufficient to meet the Lead Local Flood Authority's SuDS Appraisal. Further detail is required in respect to ground investigations including infiltration rate test (in accordance with BRE 365) and groundwater level monitoring over the winter period are required. If infiltration techniques are found to be unfeasible then an alternative discharge receptor will have to be investigated. In respect to the method of surface water disposal, the LLFA has raised concern with the proposed infiltration based scheme as it is unlikely to be feasible due to high groundwater levels indicated by both the Jeremy Benn Associates mapping and the British Geological Survey Mapping. Given the lack of a viable method of surface water disposal, the applicant has failed to demonstrate that the proposed development will not result in an increase in surface water flood risk elsewhere and therefore the proposed development is not compliant with paragraphs 155, 163 and 165 of the NPPF. This matter should be afforded significant negative weight in the overall planning balance.

#### *Foul Drainage*

- 10.86 The proposed method of foul drainage is a septic tank coupled with a reed bed filtration system. Given the site is expected to have high groundwater levels, the proposed foul drainage scheme is unlikely to be viable as it relies on a filtration reed bed which may be inhibited by the anticipated high groundwater levels. In addition to this, the Environment Agency has advised that new development should be connected to the public mains, where possible. As the proliferation of individual treatment plants can cause deterioration in the local water quality (ground and surface water) which would be contrary to the principles of the EU Water Framework Directive and is supported by paragraph 109 of the National Planning Policy Framework. The comments received from Environmental Health raised no objection to the method of foul drainage proposed however requested if any changes were to be made to the method of disposal they would require further information to comment fully. In light of this, if the proposed development were to be granted a condition would be required requesting further information in respect to the feasibility of the method currently proposed and if found not to be viable a revised method of foul drainage would need to be submitted to and approved in writing by the Local Planning Authority. This would provide Environmental Health Officers the opportunity to make comment on any revised method.



- **Supporting High Quality Communications**

- 10.87 Paragraph 114 of the NPPF requires LPA's to ensure that they have considered the possibility of the construction of new buildings or other structures interfering with broadcast and electronic communications services.
- 10.88 As part of this current application concerns have been raised in respect to the impact on local broadband. Due to the scale of the proposed development the impact on the local broadband is considered not to be significant to warrant the refusal of this application.

**c) Impact on residential amenities.**

- 10.89 The NPPF at paragraph 127 sets out guiding principles for the operation of the planning system. One of the principles set out is that authorities should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. AVDLP policy GP.8 states that permission for development will not be granted where unreasonable harm to any aspect of the amenities of nearby residents would outweigh the benefits arising from the proposal.
- 10.90 The full two-storey element of plot 2 and 3 are to be located approximately 26.6 metres from the residential dwellings located to the north-east of the application site, Drangonsfeld, Gurneys Farm and Gurney's Farm House. Due to the arrangement of plot 2, the element of the building with the greatest projection will be located approximately 16.6 metres, however to mitigate the impact the ridge height of this aspect of the development is reduced to 6.1 metres in height. There are to be no windows at first floor facing these neighbouring properties, however rooflights are to be inserted into the roof slopes of these properties. Due to the positioning of the rooflights within the roof slope limited outlook from these openings will be afforded to the occupiers of the proposed development.
- 10.91 With respect to the impact on Canal Bank House, plot 4 is situated adjacent to the rear of this neighbouring property. The spacing and separation distance between the flank of the greater projection element of plot 4 and the first floor, rear elevation of the host dwelling is approximately 15.5 metres. There are to be no windows inserted within this flank elevation facing this property. However, the flank elevation of the full two-storey element of plot 4, will have one window serving bedroom one facing this neighbouring property. Although this distance to the common boundary with Canal Bank House is greater than the other element of plot 4, this window would afford direct overlooking to the rear garden of the host dwelling. To ensure the amenity of this neighbouring property is preserved a condition could be imposed requiring the window to be obscurely glazing and top-opening. Whilst it would not normally be good practise to impose such a condition on a habitable room. It is noted that there is a further opening in the form of a rooflight to this habitable room which would afford some amenity to the occupiers of this room and therefore it is considered a reasonable condition to impose in order to preserve the private residential amenity of the occupiers of Canal Bank House.
- 10.92 The development on the British Waterway Yard site includes dwellings in close proximity to Watery Lane, facing towards the site boundary at close range. The proposed dwellings backing onto this boundary, however are shown at distances of between 23.3 and 26.7 metres approximately when measured from the full, two-storey height elements of the proposed buildings. Within the elevations which face onto the properties at the Wharf there are proposed to be no windows at first floor, only rooflights which afford limited outlook. The greater protrusion of plot 5 will be located nearer these neighbouring properties however the ridge height of this element is reduced when compared to the full height, two storey element of the building and again there are no windows at first floor facing onto the properties at the Wharf. Whilst these distances are not significant, these distances are considered to be sufficient to ensure the proposed development does not result in any significant adverse impacts that would warrant the refusal of this application. The rear

gardens serving plots 4 and 5 will be overlooked to a certain degree by these properties at Marsworth Wharf however it is considered that this relationship and outlook would be similar to a typical 'back to back' housing arrangement.

10.93 As such, it is considered that the issue of residential amenity should be afforded neutral weight in the overall planning balance.

#### **d) Developer contributions**

10.94 As noted above, there are a number of requirements arising from this proposal that need to be secured through a S106 Planning Obligation Agreement. These obligations are likely to include:

- A financial contribution towards off-site sport and leisure provision and amenity space maintenance.

10.95 It is considered that such requirements would accord with The Community Infrastructure Levy (CIL) Regulations 2010. Regulation 122 places into law the Government's policy tests on the use of planning obligations. It is now unlawful for a planning obligation to be taken into account as a reason for granting planning permission for a development of this nature if the obligation does not meet all of the following tests; necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. In the context of this application the development is in a category to which the regulations apply. The requirement for all of the above named measures, if the proposals were to be supported, would need to be secured through a Planning Obligation Agreement. These are necessary and proportionate obligations that are considered to comply with the tests set by Regulation 122 for which there is clear policy basis either in the form of development plan policy or supplementary planning guidance, and which are directly, fairly and reasonably related to the scale and kind of development. Specific projects are to be identified within the Section 106 in accordance with the pooling limitations set forth in CIL Regulation 123 to ensure that the five obligations limit for pooled contributions is not exceeded.

#### **e)Other Matters**

10.96 Human Rights: This planning application engages certain human rights under the Human Rights Act 1998 (the HRA). The HRA prohibits unlawful interference by public bodies with conventions rights. The term 'engage' simply means that human rights may be affected or relevant. 87. This application seeks to provide additional residential units. The rights potentially engaged by this application, including the right to a fair trial and the right to respect for private and family life are not considered to be unlawfully interfered with by this proposal. Matters in respect to residential amenity have been assessed under section c (residential amenity) of this report.

10.97 The above report addresses the representations made through the consultation of this application. Where these have not been addressed within the report, a brief response is made below to specific issues.

10.98 Design View: The Local Planning Authority has been made aware that the design this proposal is being reviewed. The outcome of this review is currently unknown, the concerns the Local Planning Authority has with the proposed development go beyond detailed matters relating to the appearance of the development. The outcome of the Design View is therefore considered not to overcome the concerns raised above.

10.99 Local Occupancy Clause: There is no policy basis for requiring the units for local occupancy and therefore any condition or obligation relating to this matter would not be reasonable.

10.100 Limited Awareness of Developers Initial Consultation: For a scheme of this scale there is no requirement for the developer to engage with community prior to the submission of an application.

10.101 Limited change from the previously refused application, there are brownfield sites identified in the local area & acknowledgement of the success at the Wharf site however this was a redevelopment of a brownfield site: Each application is determined on its individual merit and the Local Planning Authority has a duty to determine each application submitted on the basis of the information supplied.

10.102 Canal Bank Farm has an agricultural restriction: This was removed as part of an earlier application.

The following matters raised are not material planning considerations and therefore cannot be afforded any weight in the planning balance:

- Problem selling existing new builds
- Intentions of the proposal are for financial gain
- Precedence
- Loss of individual views
- Increase in claims of damage to vehicles
- Development not needed as there are a number of properties for sale within the area
- Name change of the Host Dwelling
- Disruption to be caused by previous surrounding development.

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